



New South Wales

Fisheries Management (General) Amendment (Restricted Fisheries) Regulation 1997

under the

Fisheries Management Act 1994

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fisheries Management Act 1994*.

Bob Martin

Minister for Mineral Resources and Minister for Fisheries

Explanatory note

The object of this Regulation is to declare several new restricted fisheries. The fisheries are:

- (a) the ocean prawn trawl fishery,
- (b) the ocean fish trawl fishery,
- (c) the ocean trap and line fishery,
- (d) the estuary general fishery,
- (e) the estuary prawn trawl fishery.

Descriptions of these fisheries are contained in the Regulation.

When a fishery is declared a restricted fishery, it becomes unlawful for a person to take fish for sale in the fishery unless the person holds a commercial fishing licence that has an endorsement from the Minister that authorises the person to take fish for sale in the restricted fishery.

This Regulation sets out the requirements that must be satisfied by a person in order to obtain such an endorsement and the conditions under which the Minister may refuse an application for endorsement or endorsement for a further period or may cancel or suspend an endorsement.

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Explanatory note

The Regulation also sets out the entitlements of owners of fishing businesses that operate in restricted fisheries. It allows a person who owns a fishing business and who is eligible for an endorsement in a restricted fishery to nominate an individual to take fish for sale in the fishery on behalf of the business.

This Regulation is made under the *Fisheries Management Act 1994*, including sections 111 (declaration of restricted fisheries), 112 (conditions of endorsements), 113 (eligibility for endorsements), 116 (other regulations relating to restricted fisheries) and 289 (the general regulation making power).

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1 Name of Regulation

This Regulation is the *Fisheries Management (General) Amendment (Restricted Fisheries) Regulation 1997*.

2 Commencement

This Regulation commences on 1 March 1997.

3 Amendment of Fisheries Management (General) Regulation 1995

The *Fisheries Management (General) Regulation 1995* is amended as set out in Schedule I.

4 Notes

The explanatory note and notes in the text do not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause3 Definitions

Insert in alphabetical order in clause 3 (1):

fishing business means a business that the Director determines to be a separate and identifiable fishing business (including any licensed fishing boat, fishing gear and catch history that is associated with that business).

[2] Clause 135 Who may hold commercial fishing licence

Insert “or that he or she is the nominated fisher of a person who owns the whole of a recognised fishing operation” after “operation” in clause 135 (1) (b).

[3] Clause 135 (1) (c4)

Omit clause 135 (1) (c4) (ii) and (iii).

[4] Clause 135 (2)

Omit “(that is, a business that includes one or more licensed fishing boats, associated fishing gear and associated catch history) that the Director determines to be a separate and identifiable business and”.

[5] Clause 135 (2A)

Insert after clause 135 (2):

(2A) For the purposes of this clause, *nominated fisher* means an individual nominated under clause 212X to take fish for sale in a restricted fishery.

[6] Part 8, Divisions 2–2D

Insert after Division 1 of Part 8:

Division 2 Ocean prawn trawl restricted fishery**174 Definitions**

deepwater prawns means prawns of the families Solenoceridae and Aristaeidae.

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

inshore waters means ocean waters that are not more than 3 nautical miles from the natural coast line (as defined in Schedule 1).

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean prawn trawlfishery means the fishery described in clause 176.

offshore waters means ocean waters that are more than 3 nautical miles from the natural coastal line (as defined in Schedule 1) and north of a line drawn due east from Barrenjoey Headland.

restricted fishery means the restricted fishery declared under this Division.

175 Ocean prawn trawl fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean prawn trawl fishery is declared to be a restricted fishery.

176 Description of ocean prawn trawl fishery

The ocean prawn trawl fishery consists of the use of an otter trawl net (prawns) to take fish from any of the following waters:

- (a) inshore waters,
- (b) offshore waters,
- (c) the waters of Coffs Harbour and Jervis Bay.

177 Types of endorsement in restricted fishery

- (1) The following classes of endorsement are available in the restricted fishery:
- e **Inshore endorsement.** This endorsement authorises the holder to use an otter trawl net (prawns) to take fish (other than deepwater prawns) for sale from inshore waters, Coffs Harbour and Jervis Bay.
 - e **Offshore endorsement.** This endorsement authorises the holder to use an otter trawl net (prawns) to take fish (other than deepwater prawns) for sale from offshore waters, or from such offshore waters as may be specified in the endorsement by the Minister.
 - **Deepwater endorsement.** This endorsement authorises the holder to use an otter trawl net (prawns) to take deepwater prawns for sale from offshore waters.
- (2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

178 Eligibility for endorsement

- (1) **Inshore endorsement.** A person is eligible for an inshore endorsement if the Minister is satisfied that:

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- (a) the person owns a licensed fishing boat and:
- (i) the boat was the subject of an ocean going survey certificate issued by the Waterways Authority (or its predecessor, the Maritime Services Board) for at least one of the years from 1986 to 1990, or
 - (ii) the fishing boat licence for the boat has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as “OP1”, and
- (b) the fishing boat licence is not subject to a “not to prawn trawl” condition, and
- (c) on the basis of ocean waters catch returns submitted to the Director by the person:
- (i) the person has taken not less than 100 kilograms per year of school or king prawns (or a combination of the two) from ocean waters in at least 3 of the years from 1986 to 1990, or
 - (ii) the person has taken a total of not less than 1,000 kilograms of school or king prawns (or a combination of the two) from ocean waters in the years from 1986 to 1990.
- (2) **Offshore endorsement.** A person is eligible for an offshore endorsement if the Minister is satisfied that the person owns a licensed fishing boat, or is the holder of a licence for a fishing boat that is in abeyance (under clause 149), and the fishing boat licence for the boat has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as “OP1”.
- (3) **Deepwater endorsement.** A person is eligible for a deepwater endorsement if the Minister is satisfied that:
- (a) the person owns a licensed fishing boat and:

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- (i) the boat was the subject of an ocean going survey certificate issued by the Waterways Authority (or its predecessor, the Maritime Services Board) in one of the years from 1986 to 1990, or
 - (ii) the fishing boat licence for the boat has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as “OP1”, and
 - (b) the fishing boat licence is not subject to a “not to prawn trawl” condition or the boat can lawfully be used for the purpose of taking deepwater prawns for sale by the method of trawling, and
 - (c) on the basis of ocean waters catch returns submitted to the Director by the person:
 - (i) the person has taken a total of not less than 1,000 kilograms of royal red or scarlet prawns (or a combination of the two) for sale from ocean waters in the years 1986 to 1993 (in the case of a person whose fishing boat licence has an endorsement from the Director authorising prawn trawling in waters closed to prawn trawling under the fishing closure notification known as “OP1”), or
 - (ii) the person has taken a total of not less than 1,000 kilograms of royal red or scarlet prawns (or a combination of the two) for sale from ocean waters in the years from 1986 to 1990 (in any other case).
- (4) If the Minister is satisfied that the catch history associated with a fishing business satisfies any of the eligibility criteria set out in this clause, the owner of the fishing business is taken to have satisfied that criteria, even if the owner did not personally take the fish for sale or submit the catch returns to the Director. In such a case, however, any person who actually took the fish for

sale or submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy that criteria.

- (5) In determining a person's eligibility for an endorsement, the Minister may have regard to records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher).
- (6) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).
- (7) In this clause:

“not to prawn trawl” condition means a condition of a fishing boat licence that prohibits the use of the boat for the purpose of taking prawns for sale from ocean waters by the method of trawling.

ocean waters catch return means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

179 Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.
- (4) The Minister may refuse to endorse the commercial fishing licence of a person if:
 - (a) the person has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

- (b) the person has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) the person has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

180 Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

181 Application for endorsement for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only 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, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

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- (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (9) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

182 Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 2A Ocean fish trawl restricted fishery

183 Definitions

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean fish trawl fishery means the fishery described in clause 185.

restricted fishery means the restricted fishery declared under this Division.

184 Ocean fish trawl fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean fish trawl fishery is declared to be a restricted fishery.

185 Description of ocean fish trawl fishery

The ocean fish trawl fishery consists of the use of an otter trawl net (fish) to take fish from the following waters:

- (a) ocean waters that are north of a line drawn due east from Barrenjoey Headland (other than the waters in which use of an otter trawl net (fish) is prohibited under clause 35),
- (b) ocean waters that are not more than 3 nautical miles from the natural coast line (as defined in Schedule 1) and are south of a line drawn due east from Barrenjoey Headland.

186 Types of endorsement in restricted fishery

- (1) The following classes of endorsement are available in the restricted fishery:

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- **Northern zone endorsement.** This endorsement authorises the holder to use an otter trawl net (fish) to take fish (other than prawns) for sale from ocean waters that are north of a line drawn due east from Barrenjoey Headland (other than the waters in which use of an otter trawl net (fish) is prohibited under clause 35).
 - **Southern zone endorsement.** This endorsement authorises the holder to use an otter trawl net (fish) to take fish (other than prawns) for sale from ocean waters that are not more than 3 nautical miles from the natural coast line (as defined in Schedule 1) and are south of a line drawn due east from Barrenjoey Headland.
- (2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

187 Eligibility for endorsement

- (1) **Northern zone endorsement.** A person is eligible for a northern zone endorsement if the Minister is satisfied that the person owns an otter trawl net (fish) that was registered in the name of the person at any time before 1 January 1993 and that:
- (a) the person submitted to the Director at least 15 ocean waters catch returns in the years from 1986 to 1990 that indicate that the person took fish from an area designated on the return as zone 1, 2, 3, 4, 5 or 6 by the method of fish trawl, or
 - (b) the person submitted to the Director at least 3 ocean waters catch returns in the years from 1986 to 1990, and at least 5 ocean waters catch returns in the years from 1991 to 1993, that indicate that

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the person took fish from an area designated on the return as zone 1, 2, 3, 4, 5 or 6 by the method of fish trawl and that the person took not less than 20 tonnes of fish trawl species in those zones in at least 3 of the years from 1986 to 1993 by the method of fish trawl.

- (2) **Southern zone endorsement.** A person is eligible for a southern zone endorsement if the Minister is satisfied that the person owns a licensed fishing boat and that:
- (a) the person holds a permit for the boat known as a “Commonwealth South East Fishery fish trawl permit”, or
 - (b) the person submitted to the Director at least 6 ocean waters catch returns in any one of the years from 1986 to 1990 that indicate that the person took fish from an area designated on the return as zone 6, 7, 8, 9 or 10 by the method of fish trawl and that the applicant took not less than 25 tonnes of fish trawl species in those zones in any one of the years from 1986 to 1990 by the method of fish trawl.
- (3) In determining a person’s eligibility for an endorsement, the person’s catch history in zone 6 may not be counted twice. The person is to nominate whether takings of fish in zone 6 are to be used in determining the person’s eligibility for a northern zone endorsement or a southern zone endorsement. In the absence of such a nomination, the Director may determine which class of endorsement those takings are to be counted toward.
- (4) If the Minister is satisfied that:
- (a) the catch history associated with a fishing business satisfies any of the eligibility criteria set out in this clause, or
 - (b) a fishing business includes a registered otter trawl net (fish) that was registered in the name of a person prior to 1 January 1993, as referred to in the eligibility criteria set out in subclause (1),

the owner of the fishing business is taken to have satisfied that criteria, even if the owner did not personally take the fish for sale, submit the catch returns or have an otter trawl net (fish) registered in his or her name. In such a case, however, the person who actually took the fish for sale or submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy the criteria.

- (5) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher).
- (6) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).
- (7) In this clause:

fish trawl species means redfish, ling, mirror dory, john dory, ocean perch, tiger flathead, gemfish, ribbonfish, silver trevally, squid, cuttlefish, red gurnard, latchet, sand flathead, leatherjacket, southern calamari, snapper, tarwhine, yellowfin bream, mulloay, rubberlip morwong, balmain bug, boarfish, moonfish, angel shark, gummy shark, school shark, hammerhead shark, endeavour dogfish, roughskin shark or saw shark.

ocean waters catch return means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

188 Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.

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- (4) The Minister may refuse to endorse the commercial fishing licence of a person if
 - (a) the person has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) the person has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) the person has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

189 Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

190 Application for endorsement for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only if:
 - (a) the applicant has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

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- (b) the applicant has, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191 Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or

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- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the fisher, ceases to be entitled to the endorsement (see clause 212Y).

Division 2B Ocean trap and line restricted fishery

191A Definitions

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

ocean trap and line fishery means the fishery described in clause 191C.

restricted fishery means the restricted fishery declared under this Division.

191B Ocean trap and line fishery is a restricted fishery

For the purposes of section 111 of the Act, the ocean trap and line fishery is declared to be a restricted fishery.

191C Description of ocean trap and line fishery

The ocean trap and line fishery consists of the following:

- (a) the use of a fish trap to take fish from ocean waters,
- (b) the use of a line with hooks attached to take fish from ocean waters,

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- (c) the use of a spanner crab net to take spanner crab from ocean waters that are north of a line drawn due east from Korogoro Point (Hat Head).

Note. The use of a spanner crab net in waters south of Korogoro Point (Hat Head) is prohibited under clause 46.

191D Types of endorsement in restricted fishery

- (1) The following classes of endorsement are available in the restricted fishery:
- **Demersal fish trap endorsement.** This endorsement authorises the holder to use a fish trap to take fish for sale from ocean waters.
 - **Line fishing (western zone) endorsement.** This endorsement authorises the holder to use a line to take fish for sale from ocean waters that are less than 183 metres in depth. The endorsement does not authorise the holder to take school or gummy shark from waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.
 - **Line fishing (eastern zone) endorsement.** This endorsement authorises the holder to use a line to take fish for sale from ocean waters that are not less than 183 metres in depth. The endorsement does not authorise the holder to take school or gummy shark from waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.
 - **School and gummy shark endorsement.** This endorsement authorises the holder to take school and gummy shark for sale from waters that are south of a line drawn due east from the northern point of the entrance to Moruya River.
 - **Spanner crab (northern zone) endorsement.** This endorsement authorises the holder to use a spanner crab net to take spanner crab for sale from ocean waters that are north of a line drawn due east from the southern breakwall at Yamba.

- **Spanner crab (southern zone) endorsement.** This endorsement authorises the holder to use a spanner crab net to take spanner crab for sale from ocean waters that are south of a line drawn due east from the southern breakwall at Yamba.
- (2) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

191E Eligibility for endorsement

- (1) **Demersal fish trap endorsement.** A person is eligible for a demersal fish trap endorsement if the Minister is satisfied that the person submitted to the Director at least 6 ocean waters catch returns in the years 1986 to 1990, and 4 ocean waters catch returns in the years 1991 to 1993, that indicate that fish were taken using a fish trap of a kind known as a bottom or demersal fish trap.
- (2) **Line fishing (western zone) endorsement.** A person is eligible for a line fishing (western zone) endorsement if the Minister is satisfied that the person submitted to the Director at least 6 ocean waters catch returns in the years 1986 to 1990, and 4 ocean waters catch returns in the years 1991 to 1993, that indicate that fish were taken by the method of line fishing.
- (3) **Line fishing (eastern zone) endorsement.** A person is eligible for a line fishing (eastern zone) endorsement if the Minister is satisfied that:
- (a) the person owns a fishing boat and the fishing boat licence for the boat has an endorsement from the Director known as an “OG1” authorisation (relating to use of the boat in offshore waters), and

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- (b) the person submitted to the Director at least 4 ocean waters catch returns in the years 1986 to 1990, and 2 ocean waters catch returns in the years 1991 to 1993, each of which indicate that at least 2 of the following species of fish were taken by line methods:
- blue-eye trevalla
 - hapuku
 - ling
 - bass groper
 - gemfish.
- (4) **School and gummy shark endorsement.** A person is eligible for a school and gummy shark endorsement if the Minister is satisfied that, on the basis of ocean waters catch returns submitted to the Director by the person, the person took a total of not less than 200 kilograms of school or gummy shark (or a combination of the two) in the years 1986 to 1990 and not less than 100 kilograms of school or gummy shark (or a combination of the two) in the years 1991 to 1993.
- (5) **Spanner crab (northern zone) endorsement.** A person is eligible for a spanner crab (northern zone) endorsement if the Minister is satisfied that:
- (a) on the basis of ocean waters catch returns submitted to the Director by the person, the person took a total of not less than 1,200 kilograms of spanner crab in the years 1986 to 1990 from an area designated on the return as zone 1 or 2 using a spanner crab net, or
 - (b) the person holds a permit issued under the Act that authorised the holder to take spanner crab for sale from ocean waters north of a line drawn due east from the southern breakwall at Yamba.
- (6) **Spanner crab (southern zone) endorsement.** A person is eligible for a spanner crab (southern zone) endorsement if the Minister is satisfied that:

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- (a) the person submitted to the Director at least 3 ocean waters catch returns in the years 1986 to 1993 that indicate that spanner crab were taken from an area designated on the return as zone 2 or 3 using a spanner crab net, and
 - (b) the person holds a permit issued under the Act that authorised the holder to take spanner crab for sale from ocean waters south of a line drawn due east from the southern breakwall at Yamba.
- (7) A person is not eligible for both a spanner crab (northern zone) endorsement and a spanner crab (southern zone) endorsement.
- (8) If the Minister is satisfied that the catch history associated with a fishing business satisfies any of the eligibility criteria set out in this clause, the owner of the fishing business is taken to have satisfied that criteria, even if the owner did not personally take the fish for sale or submit any catch returns to the Director. In such a case, however, the person who actually took the fish for sale and submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy the criteria.
- (9) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including licence records and records of fish taken by a commercial fisher).
- (10) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).
- (11) In this clause:
- ocean waters catch return* means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

191F Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.

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- (2) The application is to be accompanied by a fee of \$30.
 - (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for an endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.
 - (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
 - (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

191G Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

191H Application for endorsement for further period

- (1) The holder of an endorsed licence (being an endorsement that is in force at the time of application) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.

- (4) The Minister may refuse an application only 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, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
 - (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191I Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or

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- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 2C Estuary general restricted fishery

191J Definitions

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

estuary general fishery means the fishery described in clause 191L.

hand picking, of fish, means any method of taking fish by hand (whether or not while wearing a glove) including taking fish by hand while diving or while using an instrument referred to in clause 73.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

restricted fishery means the restricted fishery declared under this Division.

191K Estuary general fishery is a restricted fishery

For the purposes of section 111 of the Act, the estuary general fishery is declared to be a restricted fishery.

191L Description of estuary general fishery

The estuary general fishery consists of

- (a) the taking of fish from estuarine waters by any lawful method other than prawn trawling, and
- (b) the taking of fish from ocean beaches by the method of hand picking.

191M Types of endorsement in restricted fishery

- (1) The following classes of endorsement are available in the restricted fishery:

- **Hand lining and hauling crew endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using a hand line or by assisting another commercial fisher who holds a category one or category two hauling endorsement and is acting as authorised by that endorsement.
- **Meshing endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using any of the following nets:
 - meshing net
 - flathead net.
- **Prawning endorsement.** This endorsement authorises the holder to take prawns for sale from estuarine waters using any of the following nets:
 - prawn net (hauling)
 - prawn net (set pocket)
 - prawn running net
 - seine net (prawns)
 - hand-hauled prawn net
 - push or scissors net (prawns)
 - dip or scoop net (prawns).
- **Trapping endorsement.** This endorsement authorises the holder to take fish (other than eels and mud crabs) for sale from estuarine waters using any of the following nets and traps:
 - fish trap
 - hoop or lift net.

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- **Eel trapping endorsement.** This endorsement authorises the holder to use an eel trap to take eels for sale from estuarine waters.
 - **Mud crab trapping endorsement.** This endorsement authorises the holder to use a crab trap to take mud crabs for sale from estuarine waters.
 - **Hand gathering endorsement.** This endorsement authorises the holder to take beach worm, pipi, cockle, yabby and mussel for sale from estuarine waters and ocean beaches by the method of hand picking.
 - **Category one hauling endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using any of the following nets:
 - Hauling net (general purpose)
 - Trumpeter whiting net (hauling)
 - Pilchard, anchovy and bait net (hauling)
 - Garfish net (hauling)
 - Garfish net (bullringing)
 - Bait net
 - Lampara net.
 - **Category two hauling endorsement.** This endorsement authorises the holder to take fish for sale from estuarine waters using any of the following nets:
 - Garfish net (hauling)
 - Garfish net (bullringing)
 - Bait net
 - Lampara net.
- (2) An endorsement may specify a particular region or regions, determined by the Minister, in which the endorsement holder is authorised to take fish for sale by his or her endorsement.

- (3) For the purpose of section 112 (2) of the Act, it is a condition of an endorsement that the holder of the endorsed licence does not take fish for sale in the restricted fishery except as authorised by the class or classes of endorsement on his or her commercial fishing licence.

Note. Additional classes of endorsement are provided for by Division 4B of this Part.

191N Eligibility for endorsement

- (1) **General requirements.** The general requirements for an endorsement are that the person:
- (a) owns a licensed fishing boat that is suitable for use in the restricted fishery, and
 - (b) has submitted to the Director at least 12 estuary waters catch returns in any 4 years (not necessarily consecutive) from 1986 to 1993, and at least one of those returns relates to a month prior to January 1991.
- (2) **Hand lining and hauling crew endorsement.** A person is eligible for a hand lining and hauling crew endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person holds a commercial fishing licence that is not subject to a condition known as a “beach worm only” condition.
- (3) **Meshing endorsement.** A person is eligible for a meshing endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that fish were taken from estuarine waters using a meshing net or a flathead net and at least one of those returns relates to a month prior to January 1991.

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- (4) **Prawning endorsement.** A person is eligible for a prawning endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that prawns were taken by methods other than prawn trawling and at least one of those returns relates to a month prior to January 1991.
- (5) **Trapping endorsement.** A person is eligible for a trapping endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that fish (other than eels and mud crabs) were taken using a fish trap or a hoop or lift net and at least one of those returns is for a month prior to January 1991.
- (6) **Eel trapping endorsement.** A person is eligible for an eel trapping endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
 - (b) the person submitted to the Director at least 5 estuary waters catch returns in the years 1986 to 1993 that indicate that eels were taken using an eel trap.
- (7) **Mud crab trapping endorsement.** A person is eligible for a mud crab trapping endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
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- (b) the person submitted to the Director a total of at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that mud crab were taken by the method of trapping and at least one of those returns relates to a month prior to January 1991.
- (8) **Hand gathering endorsement.** A person is eligible for a hand gathering endorsement if the Minister is satisfied that:
- (a) the person holds a commercial fishing licence that is subject to a condition known as a “beach worm only” condition. or
- (b) the person fulfils the general requirements for an endorsement and submitted to the Director at least 8 ocean waters or estuary waters catch returns in the years 1986 to 1993 that indicate a catch of beach worm, pipi, cockle, yabby or mussel and at least one of those returns relates to a month prior to January 1991.
- Any ocean waters or estuary waters catch return that records cockle as catch and prawn trawling as the only catch method is not to be counted toward the criteria set out in paragraph (b).
- (9) **Category one hauling endorsement.** A person is eligible for a category one hauling endorsement if the Minister is satisfied that:
- (a) the person fulfils the general requirements for an endorsement, and
- (b) at least 10 estuary waters catch returns have been submitted to the Director in the person’s name or listing the person as a crew member in the years 1986 to 1990 that indicate that fish were taken by the method of hauling.
- (10) **Category two hauling endorsement.** A person is eligible for a category two hauling endorsement if the Minister is satisfied that:

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- (a) the person fulfils the general requirements for an endorsement, and
- (b) the person submitted to the Director at least 8 estuary waters catch returns in the years 1986 to 1993 that indicate that fish were taken by the method of hauling and at least one of those returns relates to a month prior to January 1991.
- (11) If the Minister is satisfied that the catch history associated with a fishing business satisfies any of the eligibility criteria set out in the clause, the owner of the fishing business is taken to have satisfied the criteria, even if the owner did not personally take the fish for sale or submit any catch returns to the Director. In such a case, however, the person who actually took the fish for sale or submitted the returns (for example, while working as an employee of the fishing business) does not, by having done so, satisfy that criteria.
- (12) In determining a person's eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including records of net registration, licence records and records of fish taken by a commercial fisher).
- (13) The catch history associated with a fishing business is to be determined in accordance with clause 135 (3).
- (14) In this clause:
- estuary waters catch return* means a return under section 42 of the 1935 Act that relates to takings of fish in estuarine waters.
- ocean waters catch return* means a return under section 42 of the 1935 Act that relates to takings of fish in ocean waters.

1910 Application for endorsement

- (I) An application for an endorsement is to be in a form approved by the Director.

- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for an endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for an endorsement.
- (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

191P Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

191Q Application for endorsement for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.

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- (4) The Minister may refuse an application only 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, in the opinion of the Minister, contravened a condition of the endorsement, or
 - (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191R Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

Division 2D Estuary prawn trawl restricted fishery

191S Definitions

endorsed licence means an endorsed commercial fishing licence.

endorsement means an endorsement on a commercial fishing licence authorising the holder of the licence to take fish for sale in the restricted fishery.

estuary prawn trawlfishery means the fishery described in clause 191U.

nominated fisher means a person nominated in accordance with clause 212X to take fish for sale in the restricted fishery.

restricted fishery means the restricted fishery declared under this Division.

191T Estuary prawn trawl fishery is a restricted fishery

For the purposes of section 111 of the Act, the estuary prawn trawl fishery is declared to be a restricted fishery.

191U Description of estuary prawn trawl fishery

The estuary prawn trawl fishery consists of the use of an otter trawl net (prawns) to take prawns from estuarine waters.

191V Eligibility for endorsement

- (1) A person is eligible for an endorsement if the Minister is satisfied that the person owns a licensed fishing boat, or is the holder of a licence for a fishing boat that is in abeyance (under clause 149), and the licence for the boat had, at 31 December 1996, any of the following endorsements from the Director:
 - (a) an endorsement known as “S1 Botany Bay Prawn Trawl”,
 - (b) an endorsement known as “S2 Port Jackson Prawn Trawl”,
 - (c) an endorsement known as “S3 Hawkesbury River Prawn Trawl”,
 - (d) an endorsement known as “S4 Hunter River Prawn Trawl”,
 - (e) an endorsement known as “S5 Clarence River Prawn Trawl”,
 - (f) an endorsement known as “S6 Lake Woollooweyah Prawn Trawl”.
- (2) In determining a person’s eligibility for an endorsement, the Minister may have regard to the records kept by the Director (including licence records).

191W Application for endorsement

- (1) An application for an endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for an endorsement or who is the nominated fisher of a person who satisfies the eligibility requirements for the endorsement.

- (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of the restricted fishery if the person is otherwise eligible for the endorsement.

191X Duration of endorsement

An endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

191Y Application for endorsement for further period

- (1) The holder of a commercial fishing licence that has an endorsement that is in force (a *current endorsement*) may apply to the Minister for an endorsement for a further period.
- (2) The application is to be in a form approved by the Director.
- (3) The Minister may endorse the applicant's commercial fishing licence for such further period as the Minister determines or refuse the application.
- (4) The Minister may refuse an application only 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, in the opinion of the Minister, contravened a condition of the endorsement, or

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- (c) the applicant has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (d) the applicant, or if the applicant is a nominated fisher, the owner of the fishing business who nominated the fisher, has ceased to be entitled to the endorsement (see clause 212Y), or
 - (e) the application for endorsement for a further period is received by the Minister after the expiration of the current endorsement, or
 - (f) the applicant has not paid any fee due and payable in connection with the endorsement.
- (5) If application is duly made for the endorsement of a commercial fishing licence for a further period and the licence is not so endorsed before the expiration of the current endorsement:
- (a) the current endorsement continues in force until the licence is endorsed for a further period or the application is refused, and
 - (b) the licence may be endorsed for a further period despite the fact that, but for this subclause, the endorsement would have expired.

191Z Cancellation and suspension of endorsements

The Minister may cancel or suspend an endorsement if

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or

- (d) the holder of the endorsed licence, or if the holder of the endorsed licence is a nominated fisher, the owner of the fishing business who nominated the holder of the endorsed licence, ceases to be entitled to the endorsement (see clause 212Y).

[7] Part 8, Division 4B, 4C

Insert after Division 4B:

Division 4B Special classes of endorsement

212Q Definitions

In this Division:

endorsement means an endorsement on a commercial fishing licence that authorises a person to take fish for sale in a restricted fishery.

special endorsement means an endorsement provided for by this Division.

212R Temporary skipper's endorsement

- (1) A temporary skipper's endorsement is available in the following fisheries:
 - (a) ocean prawn trawl restricted fishery,
 - (b) ocean fish trawl restricted fishery,
 - (c) ocean trap and line restricted fishery,
 - (d) estuary prawn trawl restricted fishery.
- (2) This class of endorsement authorises a person to take fish for sale in a specified restricted fishery while acting as the skipper of a boat that is owned by another person. The endorsement may specify a particular method by which the fisher is authorised to take fish for sale and may contain other limitations.
- (3) A person is eligible for a temporary skipper's endorsement if the Minister is satisfied that:
 - (a) the person held a commercial fishing licence in 1996 that did not restrict the fishing activities of the person to any particular fishing boat or boats, and

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- (b) on the basis of the records, kept by the Director, of fish taken by the person, or other evidence provided by the person, the person was employed as a skipper in the fishery concerned in 1996 and took fish for sale using the catch method authorised by the endorsement sought, and
 - (c) the person is employed as a skipper on a fishing boat that belongs to another person and the other person is eligible for an endorsement in the fishery (other than an endorsement provided for by this Division), and
 - (d) the person is not otherwise eligible for an endorsement in any restricted fishery.
- (4) A person is also eligible for a temporary skipper's endorsement if the Minister is satisfied that:
- (a) the person is a commercial fisher, and
 - (b) the person is a part owner of a fishing business and was a part owner of that fishing business in 1996, and
 - (c) because of that fishing business, the person is eligible for an endorsement but is not entitled to the endorsement because of clause 212X (3) (which sets a limit of one endorsement per fishing business).

212S Conditional skipper's endorsement

- (1) A conditional skipper's endorsement is available in the ocean prawn trawl restricted fishery.
- (2) This class of endorsement authorises a person to take fish for sale in the ocean prawn trawl restricted fishery, in the same manner as an offshore endorsement in the fishery, while acting as the skipper of an offshore prawn trawl boat that is owned by another person.
- (3) A person is eligible for a conditional skipper's endorsement if the Minister is satisfied that:
 - (a) the person is employed as a skipper on an offshore prawn trawl boat, and

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- (b) the owner of the offshore prawn trawl boat agrees to give up any entitlement the owner has to any endorsement in a restricted fishery (other than an endorsement in the estuary prawn trawl restricted fishery or an offshore endorsement in the ocean prawn trawl restricted fishery).
- (4) In this clause:
offshore prawn trawl boat means a fishing boat that is the subject of a fishing boat licence that has an endorsement of a kind known as “P1” or “P2” in the fishery known as the “offshore prawn trawl fishery”.

212T Training endorsement

- (1) A training endorsement is available in all restricted fisheries.
- (2) This class of endorsement authorises a person to take fish for sale in a restricted fishery, or a specified restricted fishery:
 - (a) in the course of training another person to become a commercial fisher, or
 - (b) in the course of being trained to become a commercial fisher.
- (3) The endorsement may specify a particular method in which the fisher is authorised to take fish for sale and contain other limitations.
- (4) A commercial fisher is eligible for such an endorsement if the Minister is satisfied that the person:
 - (a) is authorised to hold a commercial fishing licence under clause 135 (1) (c1), or
 - (b) is authorised to hold a commercial fishing licence under clause 135 (1) (c2), or
 - (c) holds a commercial fishing licence that was issued for training purposes.

212U Application for special endorsement

- (1) An application for a special endorsement is to be in a form approved by the Director.
- (2) The application is to be accompanied by a fee of \$30.
- (3) The Minister may endorse the commercial fishing licence of a person who satisfies the eligibility requirements for the endorsement.
- (4) The Minister may refuse to endorse the commercial fishing licence of a person if the person:
 - (a) has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or
 - (b) has been convicted of an offence relating to theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
 - (c) has not paid any fee due and payable in connection with the endorsement.
- (5) The Minister may endorse the commercial fishing licence of a person who applied for an endorsement before the commencement of this Division if the person is otherwise eligible for the endorsement.

212V Duration of special endorsement

A special endorsement remains in force for the period specified in the endorsement, except to the extent that its duration is affected by suspension, or unless it is cancelled.

212W Cancellation and suspension of special endorsements

The Minister may cancel or suspend a special endorsement if:

- (a) the holder of the endorsed licence has been convicted of an offence against the Act, this Regulation or any other regulation made under the Act, or

- (b) the holder of the endorsed licence has, in the opinion of the Minister, contravened a condition of the endorsement, or
- (c) the holder of the endorsed licence has been convicted of an offence relating to the theft of fish, fishing gear or a boat or intentional damage to fishing gear or a boat, or
- (d) the holder of the endorsed licence ceases to be eligible for the endorsement.

Division 4C Entitlements of fishing business owners

212X Eligibility for an endorsement (owners of fishing business)

- (1) If the owner of a fishing business is eligible for an endorsement in a restricted fishery, the owner may:
 - (a) if the owner is a natural person, apply to have his or her commercial fishing licence endorsed, or
 - (b) whether or not the owner is a natural person, nominate an individual to take fish for sale on behalf of the business.
- (2) Only one individual is entitled to an endorsement in respect of a fishing business. Accordingly, only one individual may be nominated under this clause to take fish for sale on behalf of the fishing business at any one time.
- (3) If a fishing business is owned by more than one person, they may nominate one of them to take fish for sale on behalf of the business or may nominate another individual to take fish for sale on behalf of the business.
- (4) Despite subclause (3), if a fishing business is owned by a partnership, each partner may be entitled to an endorsement, but only an endorsement in the estuary general restricted fishery.
- (5) A nomination must be in a form approved by the Director and may be revoked at any time by the owner of the fishing business by notice in writing to the Director.

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- (6) A nomination has no effect unless it is approved by the Director. The Director may impose conditions on the granting of such approvals. For example, the Director may impose a limit on the number of nominations that may be made in respect of a fishing business under this clause.
- (7) If a nomination is approved, the Minister is to cancel or suspend any other endorsement held in respect of the fishing business.
- (8) If a nomination is revoked, the Minister is to cancel the endorsement of the nominated fisher. This does not limit the powers of the Minister to refuse to endorse a commercial fishing licence, or suspend or cancel an endorsement, under the provisions of this Part.
- (9) In this clause:

endorsement means an endorsement on a commercial fishing licence that authorises a commercial fisher to take fish for sale in a restricted fishery but does not include the classes of endorsement provided for by Division 4B (Special classes of endorsement).

owner, of a fishing business, means the person or persons who own the fishing business.

Note. Clause 135 provides that if the fishing business is a recognised fishing operation, the individual nominated under this clause by the owner of the business is authorised to hold a commercial fishing licence. Accordingly, if the business is a recognised fishing operation, the individual nominated under this clause need not be a commercial fisher at the time of nomination. Division 4B allows special endorsements to be obtained by individuals. The limit of one endorsement per fishing business does not apply in respect of those endorsements.

212Y Effect of sale or disposal of fishing business on eligibility

- (1) A person ceases to be entitled to an endorsement in a restricted fishery if any part of the fishing business that made the person eligible for the endorsement is sold or disposed of. For example, if a person sells the licensed fishing boat that made the person eligible for an

endorsement, the person ceases to be entitled to such an endorsement.

- (2) A person who acquires any part of the fishing business of another person does not thereby become eligible for an endorsement in a restricted fishery, except in accordance with guidelines relating to the transfer of fishing businesses issued from time to time by the Director.

[8] Clause 213B

Insert after clause 213A:

213B Endorsements do not authorise unlawful use of fishing gear

An endorsement on a commercial fishing licence that authorises the holder of the licence to take fish for sale, or to assist in taking fish for sale, a restricted fishery using a net, trap or other fishing gear is subject to Part 3. That is, the endorsement does not authorise the use of a net, trap or other fishing gear contrary to that Part.