

Great Barrier Reef Marine Park Amendment (Queensland Fisheries Legislation) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 August 2021

David Hurley

Governor‑General

By His Excellency’s Command

Sussan Ley

Minister for the Environment

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1 Name

 This instrument is the *Great Barrier Reef Marine Park Amendment (Queensland Fisheries Legislation) Regulations 2021*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table | The day after this instrument is registered. | 26 August 2021 |
| 2. Schedule 1, Part 1 | The day after this instrument is registered. | 26 August 2021 |
| 3. Schedule 1, Part 2 | The later of:(a) the start of the day after this instrument is registered; and(b) the commencement of Chapter 4 of the *Fisheries Legislation Amendment Regulation 2020* (Qld).However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 September 2021(paragraph (b) applies) |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under the *Great Barrier Reef Marine Park Act 1975*.

4 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Great Barrier Reef Marine Park Regulations 2019

1 Subsection 5(1)

Insert:

***Commercial Fisheries Regulation*** means the *Fisheries (Commercial Fisheries) Regulation 2019* (Qld), as in force from time to time.

***Fisheries Declaration*** means the *Fisheries Declaration 2019* (Qld), as in force from time to time.

2 Subsection 5(1) (definition of *Fisheries Regulation*)

Repeal the definition.

3 Subsection 5(1)

Insert:

***General Fisheries Regulation*** means the *Fisheries (General) Regulation 2019* (Qld), as in force from time to time.

4 Subsection 5(1) (definition of *hazardous goods*)

Repeal the definition, substitute:

***hazardous goods***:

 (a) has the same meaning as dangerous goods has in Chapter VII of the Annex to the International Convention for the Safety of Life at Sea, done at London on 1 November 1974, as in force for Australia from time to time; and

 (b) includes noxious liquid substances within the meaning of Part III of the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983*.

Note: The Convention is in Australian Treaty Series 1983 No. 22 ([1983] ATS 22) and could in 2021 be viewed in the Australian Treaties Library on the AustLII website (http://www.austlii.edu.au).

5 Subsection 5(1) (definition of *‘N11’ fish*)

Omit “Fisheries”, substitute “Commercial Fisheries”.

6 Paragraph 10(b)

Omit “prescribed as”, substitute “prescribed as ‘critically endangered wildlife’ or”.

7 Paragraph 15(2)(a)

Omit “Fisheries Regulation”, substitute “Fisheries Declaration”.

8 Subparagraphs 15(2)(a)(i), (ii) and (iii)

Repeal the subparagraphs, substitute:

 (i) for a cast net—section 154;

 (ii) for a scoop net—section 155;

 (iii) for a seine net—section 156;

9 Paragraph 15(2)(b)

Repeal the paragraph, substitute:

 (b) for a commercial fisher—a seine, cast, scoop or mesh net that complies with the size, measurement and other physical requirements in the following provisions of the Commercial Fisheries Regulation:

 (i) for a seine net—subsection 42(1) of Schedule 4;

 (ii) for a cast net—section 119 of Schedule 4;

 (iii) for a scoop net—section 120 of Schedule 4;

 (iv) for a mesh net (other than a seine net)—section 121 of Schedule 4.

10 Paragraph 15(3)(a)

Omit “179 of the Fisheries Regulation”, substitute “138 of the Fisheries Declaration”.

11 Paragraph 15(3)(b)

Repeal the paragraph, substitute:

 (b) for a commercial fisher:

 (i) while using a seine net, bait netting must be in accordance with sections 138 and 140 of the Fisheries Declaration and subsections 38(6), 38(7) and 42(2) of Schedule 4 to the Commercial Fisheries Regulation; and

 (ii) while using a cast net for taking ‘N11’ fish, the fisher must comply with the licence condition in section 38 of the Commercial Fisheries Regulation; and

 (iii) while using a scoop net for taking ‘N11’ fish, the fisher must comply with the licence condition in section 38 of the Commercial Fisheries Regulation; and

 (iv) while using a mesh net (other than a seine net), bait netting must be in accordance with sections 138 and 140 of the Fisheries Declaration and sections 118, 121 and 124 of Schedule 4 to the Commercial Fisheries Regulation and, if the net is used for taking ‘N11’ fish, the fisher must comply with the licence condition in section 38 of the Commercial Fisheries Regulation;

12 Paragraph 17(1)(d)

Before “if”, insert “subject to the limitations prescribed by paragraphs (a), (b) and (c) of this subsection,”.

13 Section 18

Omit “Chapters 7 and 11 of the Fisheries Regulation”, substitute “Parts 1, 2, 3, 5, 8, 11, 12, 13 and 14 of Schedule 1 to the Commercial Fisheries Regulation and Part 1 of Schedule 8 to the Commercial Fisheries Regulation”.

14 Paragraph 27(1)(b)

Omit “Fisheries Regulation”, substitute “Queensland fisheries legislation”.

15 Subsection 27(2)

Omit “section 475 or Part 5 of Chapter 9 of the Fisheries Regulation”, substitute “section 42 of, or Part 7 of Schedule 4 to, the Commercial Fisheries Regulation”.

16 Paragraph 30(c)

Omit “prescribed as”, substitute “prescribed as ‘critically endangered wildlife’,”.

17 Section 30 (table item 12, column headed “Species”)

Omit “*Carcharinus*”, substitute “*Carcharhinus*”.

18 Section 30 (after table item 12)

Insert:

|  |  |  |
| --- | --- | --- |
| 12A | *Carcharhinus longimanus* | Oceanic whitetip shark |

19 Section 30 (table item 23, column headed “Common name”)

Omit “Scalloped hammerhead”, substitute “Scalloped hammerhead shark”.

20 Paragraphs 31(b) and (c)

Repeal the paragraphs, substitute:

 (b) a regulation made under that Act, to the extent that the regulation applies in the Marine Park;

21 Section 36

Omit all the words from and including “the following laws” to the end of the section, substitute “the requirements of the Queensland fisheries legislation relating to trawling are complied with”.

22 Subsection 44(2)

Omit “Regulation”, substitute “Declaration”.

23 Subsection 44(2) (table heading, column 2)

Omit “**Regulation**”, substitute “**Declaration**”.

24 Subsection 44(2) (table item 1, column 2)

Omit “section 114”, substitute “Division 5 of Part 11”.

25 Subsection 44(2) (table item 2, column 2)

Omit “Division 3 of Part 12”, substitute “Division 7 of Part 11”.

26 Subsection 44(2) (table item 3, column 2)

Omit “sections 116 and 116A”, substitute “Division 6 of Part 11”.

27 Subsection 44(2) (table item 4, column 2)

Omit “section 111”, substitute “Division 4 of Part 11”.

28 Subsection 44(2) (table item 5, column 2)

Omit “section 110”, substitute “Division 3 of Part 11”.

29 Subsection 44(2) (table item 6, column 2)

Omit “section 109”, substitute “Division 2 of Part 11”.

30 Paragraph 44(3)(b)

Omit “section 121 of the Fisheries Regulation”, substitute “section 84 of the Fisheries Declaration”.

31 Subparagraph 44(5)(a)(ii)

Omit “paragraphs 120A(c), (d), (e) and (f) of the Fisheries Regulation”, substitute “subsections 83(c), (d), (e) and (f) of the Fisheries Declaration”.

32 Subsection 44(5) (note 1)

Omit “Fisheries”, substitute “General Fisheries”.

33 Paragraph 44(6)(e)

Omit “subsection 472(7) of the Fisheries Regulation”, substitute “subsection 38(7) of Schedule 4 to the Commercial Fisheries Regulation”.

34 Subsection 44(6) (note)

Omit “Fisheries”, substitute “General Fisheries”.

35 Paragraph 103(f)

Omit “Division 4”, substitute “Division 3”.

36 Subparagraph 106(1)(a)(ii)

Repeal the subparagraph, substitute:

 (ii) holds a primary commercial fishing licence under the Queensland fisheries legislation that authorises trawling in the Mission Beach Leader Prawn Broodstock Capture Area; and

37 Subparagraph 106(1)(a)(iv)

Omit “the maintenance and use of vessel monitoring systems”, substitute “vessel tracking equipment”.

38 Paragraph 119(1)(b)

Repeal the paragraph, substitute:

 (b) the transfer is to occur 20 business days or less before the expiry of the period for which the permission is in force.

39 Paragraph 128(3)(b)

Repeal the paragraph, substitute:

 (b) include in the notice a statement that the holder may, before the end of:

 (i) 20 business days after the Authority gives the notice to the applicant; or

 (ii) if the Authority extends that period in accordance with section 253—that extended period;

 provide reasons to the Authority why the condition should not be modified.

40 Clause 2 of Part 2 of Schedule 1 (table items 4 to 10)

Repeal the items, substitute:

|  |  |
| --- | --- |
| 4 | Generally southerly then south‑easterly then south‑westerly along the Lizard Island (14‑116a) coastline at mean low water to the starting point |
|  | Ribbon Reef No. 5 (15‑038) Location Designated Anchorage |
| 5 | The area within the 500 metre line of Ribbon Reef No. 5 (15‑038) |
|  | Ribbon Reef No. 2 (15‑075a) Location Designated Anchorage |
| 6 | The area within the 500 metre line of Ribbon Reef No. 2 (15‑075a) |
|  | Agincourt Reef (15‑096) Designated Anchorage |
| 7 | The point 15°57.252′S 145°47.571′E |
|  | Norman Reef (16‑030) South‑Easterly Wind Designated Anchorage |
| 8 | The point 16°24.887′S 145°58.709′E |
|  | Norman Reef (16‑030) North‑Westerly Wind Designated Anchorage |
| 9 | The point 16°26.654′S 146°00.696′E |
|  | Moore Reef (16‑071) Designated Anchorage |
| 10 | The point 16°50.984′S 146°10.601′E |

41 Amendments of listed provisions—Fisheries Regulation

Omit “Fisheries Regulation” and substitute “General Fisheries Regulation” in the following provisions:

 (a) subsection 5(1) (definition of ***collapsible trap***);

 (b) subsection 5(1) (definition of ***commercial fisher***);

 (c) subsection 5(1) (definition of ***crab pot***);

 (d) subsection 5(1) (definition of ***dilly***);

 (e) subsection 5(1) (definition of ***fix***);

 (f) subsection 5(1) (definition of ***haul***);

 (g) subsection 5(1) (definition of ***mesh net***);

 (h) subsection 5(1) (definition of ***mesh size***);

 (i) subsection 5(1) (definition of ***offshore waters***);

 (j) subsection 5(1) (definition of ***recreational fisher***);

 (k) subsection 5(1) (definition of ***set mesh net***).

Part 2—Contingent amendments

Great Barrier Reef Marine Park Regulations 2019

42 Section 18

Omit “Parts 1, 2, 3, 5, 8, 11, 12, 13 and 14 of Schedule 1 to the Commercial Fisheries Regulation and Part 1 of Schedule 8 to the Commercial Fisheries Regulation”, substitute “Parts 1, 2, 3, 5, 8, 11, 12, 13, 14 and 15 of Schedule 7A to the Commercial Fisheries Regulation”.