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Statutory Rules 1993 No. L¹

256/

Great Barrier Reef Marine Park Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Great Barrier Reef Marine Park
Act 1975*.

Dated L 1993.

30 September
L BILL
HAYDEN

Governor-General

By His Excellency's Command,

L

R-Kelly

Minister for the Environment, Sport and Territories

1. Amendment

1.1 The Great Barrier Reef Marine Park Regulations are amended
as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act
1901*, s. 48.]

2. Regulation 5 (Permission requirements to be observed—zoned area)

2.1 Subregulation 5 (1):

Omit “11 or 13AF”, substitute “11, 13AF or 15D”.

3. Regulation 9 (Advertising of application)

3.1 Subregulation 9 (3):

Omit “separate days within a period of 14 days:”, substitute “days, separated by at least 7 days and within a period of 14 days:”.

4. Regulation 11 (Grant or refusal of relevant permission)

4.1 Paragraph 11 (1A) (c):

Omit “Act.”, substitute “Act (including a requirement that the person give the Authority a written undertaking in a form approved by the Authority).”.

4.2 Subregulation 11 (2):

Omit the subregulation, substitute:

“(2) If a permission is granted subject to a condition, the Authority may vary the condition at any time:

(a) in circumstances other than those to which subregulation 20 (1) or (1A) or 20A (1) applies; and

(b) if the permission holder consents in writing;

to ensure that the condition is a condition appropriate to the attainment of the object of the Act.”.

5. New regulation 13ABA

5.1 After regulation 13AB, insert:

Zoning plan definition—permanently moored facility

“13ABA. For the purposes of the Cairns Section zoning plan: ‘permanently moored facility’ means a facility that is moored in one vicinity in the Cairns Section, if it is so moored for at least 8 hours each day:

- (a) for more than 14 consecutive days; or
- (b) for more than 30 days in any period of 60 days.”.

6. Regulation 13AD (Advertising of application)

6.1 Subregulation 13AD (3):

Omit “separate days within a period of 14 days.”, substitute:
“days, separated by at least 7 days and within a period of 14 days:

- (a) in the Gazette; and
- (b) in a newspaper that has circulation generally in the State of Queensland; and
- (c) in a newspaper (if any) that is a local newspaper that has circulation in areas of the State that are adjacent to the part of the Marine Park that is proposed to be used or entered.”.

7. Regulation 13AF (Grant or refusal of relevant permission)

7.1 Paragraph 13AF (2) (c):

Omit “Act.”, substitute “Act (including a requirement that the person give the Authority a written undertaking in a form approved by the Authority).”.

7.2 Subregulation 13AF (3):

Omit the subregulation, substitute:

“(3) If a permission is granted subject to a condition, the Authority may vary the condition at any time:

- (a) in circumstances other than those to which subregulation 20 (1) or (1A) or 20A (1) applies; and
- (b) if the permission holder consents in writing;

to ensure that the condition is a condition appropriate to the attainment of the object of the Act.”.

8. Regulation 13F (Grant or refusal of permission—unzoned area)

8.1 Subparagraph 13F (1) (a) (ii):

Omit “Act;”, substitute “Act (including a requirement that the person give the Authority a written undertaking in a form approved by the Authority);”.

8.2 Subregulation 13F (2):

Omit the subregulation, substitute:

“(2) If a permission is granted subject to a condition, the Authority may vary the condition at any time:

(a) in circumstances other than those to which subregulation 20 (1) or (1A) or 20A (1) applies; and

(b) if the permission holder consents in writing;

to ensure that the condition is a condition appropriate to the attainment of the object of the Act.”.

9. Regulation 14A (Tender commercial fishing vessels)

9.1 Subregulation 14A (1):

Omit “Penalty: 10 penalty units.”.

9.2 Subparagraph 14A (2) (a) (ii):

Omit “environmental or operational damage occurring”, substitute “the occurrence of damage to the environment or”.

9.3. Subparagraph 14A (2) (a) (iii):

Omit the subparagraph, substitute:

“(iii) the conveyance of a person on a direct journey from land to the primary commercial fishing vessel or from the primary commercial fishing vessel to land; or”.

9.4 Add at the end:

“(4) If a tender commercial fishing vessel is in contravention of this regulation:

(a) the master of the primary commercial fishing vessel in association with which the tender commercial fishing vessel is licensed for use; and

(b) the person in charge of the tender commercial fishing vessel when the contravention occurs;
are each guilty of an offence.

Penalty: 10 penalty units.”.

10. Regulation 15D (Grant or refusal of permission)

10.1 Paragraph 15D (1) (a):

Omit “being conditions necessary for the attainment of the object of the Act; or”, substitute:

“being:

- (i) conditions indemnifying the Authority in respect of costs to the Authority that the permission holder’s activities might incur; and
- (ii) conditions appropriate to the attainment of the object of the Act (including a requirement that the person give the Authority a written undertaking in a form approved by the Authority); or”.

10.2 Subregulation 15D (2):

Omit the subregulation, substitute:

“(2) If a permission is granted subject to a condition, the Authority may vary the condition at any time:

- (a) in circumstances other than those to which subregulation 20 (1) or (1A) or 20A (1) applies; and
- (b) if the permission holder consents in writing;

to ensure that the condition is a condition appropriate to the attainment of the object of the Act.”.

11. Regulation 19C (Authorities)

11.1 Subregulation 19C (1):

Omit all the words before “may,”, substitute:

“(1) The holder of a relevant permission that contains a condition allowing the holder to give an authority”.

12. Regulation 19D (Permission taken not to have expired)

12.1 Paragraph 19D (1) (a):

Omit “person to whom that permission was granted”, substitute “permission holder”.

12.2 Subregulation 19D (2):

Omit “13AF (1)”, substitute “13AF (1), 13F (1)”.

13. Regulation 19E (Transfer of permissions)

13.1 Subregulation 19E (1):

Omit the subregulation, substitute:

“(1) The holder of a chargeable permission may transfer his or her interest in the permission to another person if:

(a) the permission is not a permission that is suspended under these Regulations or to which regulation 19D applies; and

(b) the Authority approves the transfer.”.

13.2 Subregulation 19E (3):

After paragraph 19E (3) (a), insert:

“(aa) any charge payable by the proposed transferor in relation to a chargeable permission (whether or not in force) that is overdue for payment; and”.

13.3 Subregulation 19E (3):

Add at the end:

“; and (c) the need to ensure the orderly and proper management of the Marine Park.”.

13.4 Subregulation 19E (4):

Omit “Within”, substitute “Subject to regulation 19F, within”.

13.5 Paragraph 19E (4) (a):

Omit “transfer; or”, substitute:

“transfer, by issuing to the proposed transferee an instrument that grants to that person a permission:

- (i) identical in effect to the permission held by the proposed transferor; and
- (ii) except with the written consent of the proposed transferee—subject to the same conditions as the permission held by the proposed transferor; or”.

13.6 Paragraph 19E (5) (b):

Omit “Act.”, substitute “Act (including a requirement that the proposed transferee give the Authority a written undertaking in a form approved by the Authority).”.

13.7 Add at the end:

“(6) An instrument issued under paragraph (4) (a) must be expressed to take effect on and from the day of the proposed transfer and is taken, for the purposes of the Act, to be a grant of permission that begins to take effect on that day, as if the grant occurred under:

- (a) regulation 11; or
- (b) regulation 13AF; or
- (c) regulation 13F; or
- (d) regulation 15D;

as the case may be.

“(7) If a permission granted under this regulation is subject to a condition, the Authority may vary the condition at any time:

- (a) in circumstances other than those to which subregulation 20 (1) or (1A) or 20A (1) applies; and
- (b) if the permission holder consents in writing;

to ensure that the condition is a condition appropriate to the attainment of the object of the Act.

“(8) As soon as is practicable after the Authority approves a proposed transfer, it must notify the approval in the *Gazette*.

“(9) No later than the day after the day on which a transfer takes effect under this regulation, the transferor of the permission must surrender to the Authority the instrument of permission held by him or her, for cancellation by the Authority.”.

14. New regulation 19F

14.1 After regulation 19E, insert:

Insufficient information relating to application for approval

“**19F.** (1) The Authority may request the applicants for approval of a transfer to give the Authority further information relating to the application.

“(2) The request must be:

- (a) in writing, specifying the information sought; and
- (b) in respect of information necessary for a proper consideration of the application.

“(3) The Authority must not make a decision to approve, or refuse approval of, an application until the further information requested is received and considered.

“(4) The period of 28 days specified in subregulation 19E (4) is taken to be extended by the duration of the period that begins on the day when a request is made under this regulation and ends on the day when all the requested information is given to the Authority.

“(5) Despite subregulation (4), if all the requested information is not given to the Authority before the end of 60 days after the request is made, the application is taken to be withdrawn by the applicants.”.

15. Regulation 20 (Suspension of permission—endangerment of Marine Park)

15.1 Subregulation 20 (2):

Omit all the words after “practicable,”; substitute “give written notice of the fact to the permission holder.”.

16. Regulation 20A (Suspension of permission, etc—non-compliance with a condition)

16.1 Subregulation 20A (1):

Omit the subregulation, substitute:

“(1) If it appears to the Authority that a permission holder is failing to comply with a condition subject to which the Authority granted:

(a) a relevant permission, a permission to carry on a prescribed activity in an unzoned area or a permission under regulation 15D; or

(b) an approval of a proposed transfer of a permission;

the Authority may suspend the permission, vary the condition or impose additional conditions on the permission.”.

16.2 Subregulation 20A (5):

Omit the subregulation, substitute:

“(5) If, in respect of a permission that is under suspension, the Authority is satisfied that the condition referred to in subregulation (1) is being complied with by the permission holder, the Authority must end the suspension.”.

17. Regulation 20B (Suspension of permission under which charge is owing)

17.1 Omit the regulation, substitute:

Suspension of permission—non-compliance with Part VA

“20B. A permission that is a chargeable permission may be suspended by the Authority if:

- (a) at the end of the calendar month in which charge is payable, it has not been wholly paid; or
- (b) at the end of the calendar month in which a return is to be given to the Authority under subregulation 53 (1) or (2), the return has not been given to the Authority.”.

18. Regulation 21 (Revocation of permission)**18.1 Subregulation 21 (1):**

Omit the subregulation, substitute:

“(1) If, 60 days after action taken by the Authority under subregulation 20A (1) in respect of a permission, the permission holder:

- (a) continues to fail to comply with the condition referred to in that subregulation; or
- (b) is failing to comply with the condition as varied under that subregulation; or
- (c) is failing to comply with the additional conditions imposed on the permission;

as the case may be, the Authority may revoke the permission.”.

“(1AA) Despite regulation 20A and subregulation 21 (1), if a permission holder fails to comply with:

- (a) a condition subject to which the relevant permission, permission to carry on a prescribed activity in the unzoned area or permission under regulation 15D has been granted to the holder; or
- (b) a condition subject to which transfer of a permission of that kind has been approved by the Authority;

the Authority, if it thinks fit, may revoke the permission or vary it by imposing a limitation on its exercise by the holder.”.

18.2 Subregulation 21 (1B):

Omit “subregulation (1)”, substitute “paragraph (1AA) (a)”.

18.3 Subregulation 21 (1C):

Omit the subregulation, substitute:

“(1C) A permission that is a chargeable permission may be revoked by the Authority if, at the end of 60 days after the permission has been suspended under regulation 20B, the permission holder has not taken the action that would enable the suspension to be withdrawn by the Authority.”.

18.4 Subregulation 21 (2):

Omit the subregulation, substitute:

“(2) If the Authority revokes a permission, it must give the permission holder written notification of the fact as soon as is practicable.”.

19. Regulation 26 (Assessment of impact of activities in the Marine Park)

19.1 Add at the end:

“(2) For the purposes of this regulation, an assessment made by the Authority in respect of the grant of a permission that is later transferred under regulation 19E is taken to be an assessment made in respect of the grant of the permission to the transferee.”.

20. Regulation 27 (Interpretation of this Part and Schedule 4)

20.1 Subregulation 27 (3):

Omit the subregulation, substitute:

“(3) If, before a permission ceases to be in force, the permission holder applies for a permission to carry on in the Marine Park after the permission ceases to be in force, an activity that:

- (a) is the same as the permitted activity; and
- (b) is to be carried on in the same area as the permitted activity;

the application is taken for the purpose of Schedule 4 to be an application for continuation of a permission.”.

21. Regulation 34 (Interpretation)

21.1 Subregulation 34 (1) (definition of “tourist”):

Omit “subsection 3A (3)”, substitute “subsection 3A (9)”.

21.2 Subregulation 34 (1) (definition of “visitor”):

Omit “program;”, substitute “program.”.

22. Regulation 37 (Standard tourist program charge)

22.1 Subregulation 37 (2A):

Add at the end:

- “; or (d) to participate in an excursion or excursions for which the operator is liable to pay charge under regulation 41; or
- (e) to participate in an excursion or excursions for which the operator is liable to pay charge under regulation 42; or
- (f) to participate in an excursion or excursions for which the operator is liable to pay charge under regulation 46.”.

23. Regulation 40 (Motorised water sports charges)

23.1 Subregulation 40 (1):

After “hiring”, insert “of”.

23.2 Subregulation 40 (1):

Omit “who does not hold a permission for any other kind of tourist program,”.

24. Regulation 41 (Semi-submersible and glass-bottomed boats charges)

24.1 Paragraph 41 (2) (a):

Omit “excursions;”, substitute “excursions (except excursions that occur on the same day);”.

25. Regulation 42 (Sight-seeing aircraft charges)

25.1 Paragraph 42 (2) (a):

Omit “excursions;”, substitute “excursions (except excursions that occur on the same day);”.

26. Regulation 43 (Pontoon charges)

26.1 Paragraph 43 (2) (a):

Omit “excursions;”, substitute “excursions (except excursions that occur on the same day);”.

27. Regulation 46 (Underwater observatory charges)

27.1 Paragraph 46 (2) (a):

Omit “excursions;”, substitute “excursions (except excursions that occur on the same day);”.

28. Regulation 47 (Lady Elliott Island charges)

28.1 Subregulation 47 (1):

Omit “Elliot”, substitute “Elliott”.

29. Regulation 50 (Vending operations charges)

29.1 Paragraph 50 (1) (a):

Omit “regulation 37”, substitute “regulation 37,”.

30. Regulation 51B (Overpayment of charge)

30.1 Omit the regulation, substitute:

Overpayment of charge

“**51B.** If the amount of a payment of charge by a permission holder is determined by the Authority to exceed the amount of charge properly payable by the holder, the next amount of charge calculated to be payable under this Part is reduced by an amount equal to the amount of the overpayment unless the Authority has refunded to the holder that amount.”.

31. Regulation 52 (Record-keeping)**31.1 Subregulation 52 (1):**

Omit "record each day", substitute "record, each day on which the permission is used by the holder, and whether or not charge is incurred,".

32. Schedule 1

32.1 Omit "Subregulations 6 (1), 3AB (1)", substitute "Subregulations 6 (1), 13 AB (1)".

33. Schedule 1B**33.1 Column 4:**

Omit "Trumpet Shell", substitute "giant triton shell".

34. Schedule 1C**34.1 Column 2:**

Omit "Ostreidae) and species *Plebidonax deltoides*", substitute "Ostreidae and species *Plebidonax deltoides*".

34.2 Column 2:

Omit "Section Brachyura) and Genera *Upogebia, Callianassa*", substitute "section Brachyura, and genera *Upogebia, Callianassa*".

35. Schedule 1D

35.1 Omit the Schedule.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on *L* 1993. *7 October*
2. Statutory Rules 1983 No. 262 as amended by 1985 No. 169; 1986 No. 1; 1987 No. 242; 1988 No. 185; 1989 Nos. 269, 367 and 368; 1990 Nos. 9 and 35; 1991 Nos. 63, 257 and 296; 1992 No. 69; 1993 Nos. 188 and 206