

SEQ Conditions 2020

Conditions applying to this Fishing Permit

In addition to the conditions specified by sub section 32(5) of the *Fisheries Management Act 1991* (the Act), and the condition in sub section 42(2) to comply with any log book determination, and the condition to comply with any Direction under s41A in accordance with sub section 32(7A), the following conditions are specified for the purposes of sub section 32(6) sub paragraph (a)(i):

Note: Under sub section 32(8) these conditions may be varied, revoked or a further condition specified by written notice from AFMA.

Specifically, section 32(5)(a) of the Act provides that a Fishing Permit is granted subject to conditions that the holder must comply with any obligations imposed by the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (the Plan) in particular:

Section 45 titled	<i>Purpose of Part 7</i>
Section 46 titled	<i>General obligations</i>
Section 48 titled	<i>Obligations relating to carrying of fish</i>
Section 49 titled	<i>Obligations relating to unloading of fish of a quota species taken under State or Territory permit</i>
Section 50 titled	<i>Obligations relating to unloading of fish of a quota species before fishing under State or Territory permit</i>
Section 51 titled	<i>Obligations relating to areas in which holder can fish</i>
Section 52 titled	<i>Obligations relating to inspection of nominated boat</i>
Section 53 titled	<i>Obligations relating to disposal of fish landed from the fishery.</i>

By section 42B (2) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019* (the Regulations) providing conditions that apply to this fishing concession in particular:

Regulation 33:	Nominated boat must be used on trip.
Regulation 37:	Concession holder to ensure that vessel monitoring system is fitted and operating.
Regulation 39:	Requirement to carry observer.
Regulation 40:	Concession holder to ensure provision for observer and equipment.
Regulation 41:	Concession holder to ensure observer is able to perform functions.
Regulation 44–65:	Catch limits.*
Regulation 66–68:	Fish processing during a trip.
Regulation 70:	No interaction with protected organism.
Regulation 71:	Reporting interaction with protected organism.

Regulation 72: Requirements if protected organisms is injured by interaction.

Regulation 73: Requirements if protected organisms killed by interaction.

* not applicable to some concessions

Authorised species

1. This concession authorises fishing for the following species only:
 - (a) Individual Transferable Quota species, as listed in Attachment A.

Concurrent conditions

2. This concession must only be used in conjunction with another concession held by the same holder namely a Southern and Eastern Scalefish and Shark Fishery (SESSF) Quota Statutory Fishing Right or a fishing concession that allows the take of quota species ("that other concession") such that:
 - (a) The conditions of that other concession apply (to the extent those conditions are not inconsistent and are capable of doing so) as conditions of this concession.
 - (b) A breach, suspension or cancellation of that other concession is a breach, suspension or cancellation of this concession.
 - (c) The conditions of this concession apply (to the extent these conditions are not inconsistent and are capable of doing so) as conditions of that other concession while it is being used in conjunction with this concession.
 - (d) A breach, suspension or cancellation of this concession is a breach, suspension or cancellation of that other concession.

Quota balancing obligations

3. The holder must not be over quota for any quota species or any of the Individual Transferable Quota species listed in Attachment A.
4. The holder is not considered to be over quota for a species if, within 28 days of landing an amount (by weight) in excess of their uncaught quota recorded in the Register, the holder acquires a further amount of quota for that species which is equal to or greater than the excess.
5. If the holder is over quota for any quota species AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Act. In deciding whether to suspend or lift the suspension of this concession AFMA must take account of any written explanation from the holder detailing any exceptional circumstances as to why the holder was over quota.
6. Any dealing in a quota Statutory Fishing Right by the holder of a boat Statutory Fishing Right or Fishing Permit for the purpose of complying with this condition must be lodged with AFMA duly executed and in the form approved by AFMA, on or before the 28th

day from which the excess quota species was landed. For the purpose of determining if the holder is over quota under this condition, any acquisition of quota for a species may only be deemed to have been acquired up to 28 days prior to the date of registration of that acquisition of that quota species.

7. If this concession is suspended, unless the holder has acquired and AFMA has then recorded in the Register (but may not deem) an amount of uncaught quota for which the holder is over quota, this concession may, under this condition, again be suspended upon expiration of the earlier suspension.

In this condition:

Acquire means receiving statutory fishing rights by registering a dealing by which an amount of statutory fishing rights are permanently or seasonally transferred to the holder; and **acquisition** has a comparable meaning.

Quota species has the same meaning as quota species in the applicable management plan for which this concession has been granted and established under the Act.

Over quota means when the holder lands an amount of quota species in excess of the available uncaught amount recorded for that species in the holder's name on the Register.

Register means the Register of Statutory Fishing Rights kept by AFMA pursuant to section 44 of the Act.

Agent obligations

8. The holder accepts concurrent liability for all conduct by its servants or agents infringing the Act (or the Regulations, Management Plans or concession conditions made by virtue of that Act) who may be engaged by the holder to conduct on the holder's behalf activity under this concession.
9. Liability for the conduct of the holder's servants or agents arises, even if the conduct may be, or actually is, beyond the scope of the servant or agent's actual or apparent authority where it is a breach that occurs during the conduct of activity authorised by this concession.
10. The holder may avoid concurrent liability for conduct whilst conducting activity under this concession if, but only if, the holder can establish that the infringing conduct could not possibly have been prevented by any action or precaution that the holder might have reasonably taken.
11. The giving of an indemnity by the servant or agent to the holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.

12. The holder must ensure the master of the boat fishing under the authority of this concession is nominated as an authorised agent for the holder before any fishing operation may take place:
- (a) The holder must ensure the authorised agent signing the determined *Daily Fishing logbook page was the master of the boat (skipper) at the time the recorded fishing operation took place.
 - (b) The holder may sign the determined *Daily Fishing logbook page if they were the master of the boat (skipper) when the recorded fishing operation took place.
 - (c) If more than one master of the boat is on board the boat during the fishing trip, each master must complete and sign a separate determined *Daily Fishing logbook page for each of the fishing operations for which they had control over.

** These instructions are for all determined Daily Fishing Logs including e-Logs.*