

1991—No. 526

JUSTICES ACT 1902—REGULATION

(Relating to the short description of certain offences under the Fisheries and Oyster Farms Act 1935 and the regulations under that Act)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Justices Act 1902, has been pleased to make the Regulation set forth hereunder.

TERRY GRIFFITHS
Minister for Justice.

The Fisheries (Short Description of Offences) Regulation 1985 is amended:

- (a) by omitting from clause 2 the words “or the Fisheries and Oyster Farms (General) Regulations,” and by inserting instead the words “the Fisheries and Oyster Farms (General) Regulation 1989, the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989 or the Fisheries and Oyster Farms (Oyster and Fish Farming) Regulation 1987”;
- (b) by inserting at the end of clause 2 the following subclause:
 - (2) If a choice of words is indicated in Column 2 of Schedule 1, the words remaining after the omission of the words irrelevant to the offence constitute the prescribed expression.
- (c) by omitting Schedule 1 and by inserting instead the following Schedule:

SCHEDULE 1

(C1.2)

Column 1 OFFENCE	Column 2 PRESCRIBED EXPRESSION
Offences under the Fisheries and Oyster Farms Act 1935	
Section 18 (5)—take or attempt to take fish in contravention of notification by Minister prohibiting the taking of fish from waters	take/attempt to take fish when fishing prohibited
Section 18 (5)—aid or assist a person to take or attempt to take fish in contravention of notification by Minister prohibiting the taking of fish from waters	aid/assist in taking/ attempting to take fish when fishing prohibited
Section 18 (5)—being in a boat with a person during the commission of an offence under section 18 (5) by that person	in boat with person committing offence
Section 18 (6)—in possession of fish known to be taken in contravention of notification by Minister prohibiting the taking of fish from waters	possession of fish taken when fishing prohibited
Section 18 (7) (a)—found in or on or adjacent to waters, being in a boat containing fishing gear when the taking of fish in those waters is prohibited absolutely by notification by Minister	in possession of fishing gear in boat on waters when fishing prohibited
Section 18 (7) (b) (i)—found in or on or adjacent to waters, being in a boat containing fishing gear when the use of that boat for the taking of fish in those waters is prohibited by notification by Minister	in boat with fishing gear when use of boat for taking fish prohibited

1991—No. 526

Column 1 OFFENCE	Column 2 PRESCRIBED EXPRESSION
Section 18 (7) (b) (ii)—found in or on or adjacent to waters, being in a boat containing fishing gear when the use of that quantity or class of fishing gear for the taking of fish in those waters is prohibited by notification by Minister	in boat with quantity/class of fishing gear prohibited for taking fish
Section 18 (7) (b) (iii)—found in or on or adjacent to waters, being in a boat containing fishing gear when the use of that boat with the quantity or class of fishing gear aboard for the taking of fish in those waters is prohibited by notification by Minister	in boat with fishing gear when use of boat with quantity/class of gear aboard prohibited for taking fish
Section 18 (7) (c)—found in or on or adjacent to waters, in possession of fishing gear when the taking of fish in those waters is prohibited	in possession of fishing gear in waters when fishing prohibited
Section 18 (7) (d)—found in or on or adjacent to any waters and in possession of fishing gear when use of that quantity or class of fishing gear for the taking of fish in those waters is prohibited	in possession of quantity/class of fishing gear prohibited for taking fish
Section 42 (5)—neglect or fail to furnish return in accordance with section 42 of the Act	neglect/fail to furnish return
Section 104—being the master of a boat required by the Act to be licensed, did not without reasonable cause have on board the boat the licence issued under the Act in respect of the boat	not have licence on board boat

Column 1 OFFENCE	Column 2 PRESCRIBED EXPRESSION
Offences under the Fisheries and Oyster Farms (Nets and Other Fishing Gear) Regulation 1989	
Clause 71 (1)—in or on any waters, place or set any net or other fishing gear not identified in accordance with clause 71 (2) or (3)	fail to properly identify fishing gear
Clause 71 (1)—in or on any waters, use or lift any set net or other set fishing gear not identified in accordance with clause 71 (2) or (3)	use/lift set net/set fishing gear not properly identified
Clause 72—interfere with any set net or other set fishing gear if not the owner or a person engaged in the administration of the Act or any instrument under the Act	interfere with set net/set fishing gear
Offences under the Fisheries and Oyster Farms (General) Regulation 1989	
Clause 13 (1)—not cause to be displayed on the outside of both sides of the bow of licensed boat or on the outside of both sides of the wheelhouse of the boat the letters “LFB” and the licence number allotted to the boat by the boat licence	not properly mark licensed boat
Clause 13 (2)—display the letters “LFB” on a boat in any waters if the boat is not licensed under section 23 or 24 of the Act	display letters “LFB” on unlicensed fishing boat
Offences under the Fisheries and Oyster Farms (Oyster and Fish Farming) Regulation 1987	
Clause 28 (1) (a)—being the lessee of an oyster farm, did not within 30 days of the commencement of the lease (or such longer period allowed by the Director-General by notice) mark out area applied for in accordance with clause 28 (2) and (3)	fail to properly mark out area of oyster lease

1991—No. 526

Column 1 OFFENCE	Column 2 PRESCRIBED EXPRESSION
Clause 28 (6)—being the lessee of an oyster farm, fail to keep the leased area marked as required by clause 28	fail to keep area of oyster lease properly marked

EXPLANATORY NOTE

The object of this Regulation is to amend the Fisheries (Short Description of Offences) Regulation 1985 to further prescribe and to update short descriptions for certain offences under the Fisheries and Oyster Farms Act 1935 and the regulations under that Act.
