

South Australia

Fisheries Management (Abalone Fisheries) Regulations 2006

under the *Fisheries Management Act 2007*

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Legislative history

1—Short title

These regulations may be cited as the *Fisheries Management (Abalone Fisheries) Regulations 2006*.

Note—

These regulations prescribing a scheme of management for a fishery under the repealed *Fisheries Act 1982* were continued in force by Sch 1 cl 5(1) of the *Fisheries Management Act 2007* as if they were regulations for the management of the fishery made under the *Fisheries Management Act 2007*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

abalone fishery means—

- (a) the Central Zone Abalone Fishery; or
- (b) the Southern Zone Abalone Fishery; or

(c) the Western Zone Abalone Fishery,
constituted by these regulations;

Act means the *Fisheries Management Act 2007*;

Blacklip Abalone means *Haliotis rubra*;

Central Zone means the waters adjacent to South Australia between the meridians of longitude 136°30' East and 139° East, but does not include the waters of the Coorong or any other waters inside the Murray Mouth;

conversion value means the number determined by the Minister to be the conversion value for the purpose of calculating the weight of abalone meat before removal from the shell;

Corporations Act means the *Corporations Act 2001* of the Commonwealth;

current company extract means a document prepared by the Australian Securities and Investment Commission from its national database kept under the Corporations Act that contains current details of the following in relation to a company:

- (a) the company's name;
- (b) the address of the company's registered office;
- (c) the date of registration of the company;
- (d) the State or Territory in which the company is taken to be registered under the Corporations Act;
- (e) the company's Australian Company Number;
- (f) whether the company is a proprietary company or a public company;
- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

Department means the administrative unit of the Public Service responsible, through the Minister, for the administration of the Act;

Greenlip Abalone means *Haliotis laevigata*;

Mean High Water Springs means the line representing the average of all high water observations at the time of spring tide over a period of 19 years;

meat, in relation to an abalone, means all the muscular foot of the abalone from which the viscera have been detached by the usual shucking procedure;

Southern Zone means the waters adjacent to South Australia east of the meridian of longitude 139° East;

Western Zone means the waters adjacent to South Australia west of the meridian of longitude 136°30' East;

whole, in relation to an abalone, means the whole of the abalone including the meat, viscera and shell.

- (2) In these regulations, unless the contrary intention appears, *company*, *director*, *proprietary company* and *public company* have the same respective meanings as in the Corporations Act.

- (3) In these regulations, a reference to the *taking of abalone* includes a reference to an act preparatory to, or involved in the taking of abalone.
- (4) In these regulations, a reference to a class of abalone is a reference to a class of abalone determined by the Minister by reference to all or any of the following factors:
 - (a) a species of abalone; or
 - (b) a description of abalone by reference to sex, size, weight or any other characteristic.

Notes—

- 1 Common and scientific fish names are given according to *AS: SSA-001 Australian Fish Names Standard* published by Seafood Services Australia in July 2007, as amended from time to time.
- 2 Unless the contrary intention appears, all lines in spatial descriptions are geodesics based on the Geocentric Datum of Australia 1994 (GDA94) as defined in the Commonwealth of Australia Gazette GN35 of 6 September 1995 and all co-ordinates are expressed in terms of GDA94.

4—Conversion of whole weight to meat weight

For the purposes of these regulations, the weight of abalone meat before removal from the shell is to be determined by multiplying the number of kilograms in the weight of the whole abalone by the conversion value determined by the Minister for the time being.

5—Constitution of fisheries

- (1) The following fisheries are constituted:
 - (a) the Central Zone Abalone Fishery;
 - (b) the Southern Zone Abalone Fishery;
 - (c) the Western Zone Abalone Fishery.
- (2) The Central Zone Abalone Fishery consists of the taking of abalone in the waters of the Central Zone.
- (3) The Southern Zone Abalone Fishery consists of the taking of abalone in the waters of the Southern Zone.
- (4) The Western Zone Abalone Fishery consists of the taking of abalone in the waters of the Western Zone.

6—Maximum number of licences that may be in force

- (1) The maximum number of licences that may be in force in respect of the Central Zone Abalone Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (2) The maximum number of licences that may be in force in respect of the Southern Zone Abalone Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (3) The maximum number of licences that may be in force in respect of the Western Zone Abalone Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

7—Transfer of licence

- (1) Licences in respect of an abalone fishery are transferable.
- (2) An application for consent to the transfer of a licence must be accompanied by—
 - (a) the licence to be transferred; and
 - (b) a form of return as required by regulation 21 completed by the holder of the licence up to the date of application; and
 - (c) if the transferee is a company—a current company extract relating to the transferee issued not more than 1 month immediately preceding the date of application.
- (3) The Minister may only consent to the transfer of a licence if satisfied as to the following:
 - (aa) that any fees or other amounts payable in relation to the licence under the Act or the repealed Act have been paid in full;
 - (a) that the licence to be transferred has not been suspended;
 - (b) that no proceedings alleging an offence against the Act or the repealed Act are pending or likely to be commenced in the State against the holder of the licence;
 - (c) if the transferee is a natural person, that the transferee is at least 15 years of age and is a fit and proper person to hold a licence in respect of an abalone fishery;
 - (d) if the transferee is a company, that each director of the company is a fit and proper person to be a director of a company that holds a licence in respect of an abalone fishery;
 - (e) if a boat registered for use under the licence is the subject of, or registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under a law of the Commonwealth or a corresponding law—
 - (i) that the entitlement is either to be transferred together with the licence to the transferee or to be surrendered on or before the transfer of the licence; or
 - (ii) that—
 - (A) the transfer of the licence separately from the entitlement is not likely to result in fishing activities that over-exploit or endanger the aquatic resources of the State; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

8—Registration

An application by the holder of a licence in respect of an abalone fishery—

- (a) to register a boat or device for use under the licence; or
- (b) to register a person as a master of a boat that may be used under the licence,

must be accompanied by the documents specified in the application form.

9—Revocation of registration

- (1) The Minister may, on application by the holder of a licence in respect of an abalone fishery, revoke the registration of—
 - (a) a boat or device used under the licence; or
 - (b) a person as a master of a boat that may be used under the licence.
- (2) An application for revocation of registration must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicant and be completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the documents specified in the application form.

14—Individual catch quota system—Central Zone

- (1) In this regulation—

abalone quota entitlement or ***quota entitlement***, in relation to a licence in respect of the fishery and a class of abalone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence during a quota period, being the product of—

 - (a) the unit entitlement under the licence in respect of that class of abalone; and
 - (b) the unit value for the fishery and that class of abalone and quota period,

subject to any variation applying during that quota period;

fishery means the Central Zone Abalone Fishery;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 January;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone;

unit value means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for the fishery, a class of abalone and a quota period.

- (2) The Minister—
 - (a) must determine—
 - (i) the number of kilograms of abalone meat that is to be the value of an abalone unit for the fishery, a class of abalone and each quota period; and
 - (ii) the conversion value for the fishery and a class of abalone;
 - (b) may, from time to time, vary the conversion value for the fishery and a class of abalone.

- (3) The Minister may vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of a particular class of abalone and decrease the unit entitlement under the other licence in respect of that class of abalone by a corresponding number of units;
 - (b) if the total catch of abalone of a particular class taken by the holder of a licence during a quota period exceeded the abalone quota entitlement under the licence in respect of that class of abalone and quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement in respect of that class of abalone—
 - (i) if the catch exceeded the quota entitlement by not more than 50 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by more than 50 kilograms but not more than 100 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (c) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing an abalone quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 100 kilograms of abalone meat in excess of the quota entitlement,the conditions of the licence may be varied so as to decrease the abalone quota entitlement under the licence in respect of the class of abalone that was taken for 3 quota periods following the conviction by 1 kilogram for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed;
 - (d) if the total catch of abalone of a particular class taken by the holder of a licence during a quota period was less than the abalone quota entitlement under the licence in respect of that class of abalone and quota period, the Minister may vary the conditions of the licence so as to—
 - (i) increase the quota entitlement in respect of that class of abalone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota entitlement (but in any case by not more than 50 kilograms); and
 - (ii) prohibit any additional abalone units allocated to the licence as a result of the increase in the quota entitlement made under this paragraph from being transferred to another licence;
 - (e) if—
 - (i) the holder of a licence has assisted in the carrying out of research work under the Act or the repealed Act in relation to the fishery; and

- (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,

the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;

- (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than under paragraph (a) or (c)) must be expressed to apply only for the quota period during which the variation is made.
- (4) For the purposes of subregulation (3)(d), in determining whether the total catch of abalone during a particular quota period was less than the abalone quota entitlement under the licence in respect of that quota period, any increase in the quota entitlement applying during that period as a result of a variation made under that subregulation must be disregarded.
- (5) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (6) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone of any class if the unit entitlement under the licence in respect of either class of abalone specified in column 1 of the following table falls below the number specified alongside in column 2.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Column 1	Column 2
Class of abalone	Unit entitlement
Blacklip Abalone	25
Greenlip Abalone	25

- (7) For the purposes of subregulation (6), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

15—Individual catch quota system—Southern Zone

(1) In this regulation—

abalone quota entitlement or **quota entitlement**, in relation to a licence in respect of the fishery, a class of abalone and a fishing zone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence in that fishing zone during a quota period, being the product of—

(a) the unit entitlement under the licence in respect of that class of abalone and fishing zone; and

(b) the unit value for that class of abalone, fishing zone and quota period, subject to any variation applying during that quota period;

area 1 means the waters near Nene Valley contained within and bounded by a line commencing at Mean High Water Springs closest to 37°59'11.00" South, 140°30'45.31" East, then generally south-easterly following the line of Mean High Water Springs to the location closest to 38°01'14.86" South, 140°34'14.13" East, then southerly to 38°04'26.91" South, 140°34'12.99" East, then north-westerly to 38°02'26.87" South, 140°30'44.00" East, then northerly to the point of commencement;

area 2 means the waters of or near Discovery Bay contained within and bounded by a line commencing at Mean High Water Springs closest to 38°03'24.61" South, 140°45'00.00" East, then beginning north-easterly following the line of Mean High Water Springs to the location closest to 38°03'07.53" South, 140°55'00.00" East, then southerly to a line 5560 metres seaward of Mean High Water Springs closest to 38°06'05.97" South, 140°54'59.85" East, then westerly to a line 5560 metres seaward of Mean High Water Springs closest to 38°06'23.01" South, 140°44'59.42" East, then northerly to the point of commencement;

area 3 means the waters near Ringwood Reef contained within and bounded by a line commencing at the location closest to 37°31'57.00" South, 140°01'18.00" East, then easterly to 37°31'57.00" South, 140°02'36.00" East, then southerly to 37°32'30.00" South, 140°02'36.00" East, then north-westerly to 37°32'18.00" South, 140°01'18.00" East, then northerly to the point of commencement;

area 4 means the waters of or near Gerloff Bay contained within and bounded by a line commencing at Mean High Water Springs closest to 37°55'09.05" South, 140°23'48.16" East (Cape Banks), then beginning generally northerly following the line of Mean High Water Springs to the location closest to 37°57'04.33" South, 140°28'11.44" East, then south-westerly to 37°58'30.00" South, 140°26'00.00" East, then north-westerly to 37°56'00.00" South, 140°21'30.00" East, then north-easterly to the point of commencement;

Area S means that part of the Southern Zone comprised of areas 1, 2, 3 and 4;

fishery means the Southern Zone Abalone Fishery;

fishing zone means—

(a) the Southern Zone; or

(b) Area S; or

(c) any 1, 2 or 3 of the areas comprising Area S; or

(d) the waters of the Southern Zone outside Area S;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 September;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone and a fishing zone;

unit value means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for a fishing zone, a class of abalone and a quota period.

- (2) The Minister—
- (a) must determine—
 - (i) the number of kilograms of abalone meat that is to be the value of an abalone unit for a fishing zone, a class of abalone and each quota period; and
 - (ii) the conversion value for a fishing zone and a class of abalone;
 - (b) may, from time to time, vary the conversion value for a fishing zone and a class of abalone.
- (3) The Minister may vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences, the conditions of those licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of a particular class of abalone and fishing zone and decrease the unit entitlement under the other licence in respect of that class of abalone and fishing zone by a corresponding number of units;
 - (b) if the total catch of abalone of a particular class taken by the holder of a licence in a fishing zone during a quota period exceeded the abalone quota entitlement under the licence in respect of that class of abalone, fishing zone and quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement in respect of that class of abalone and fishing zone—
 - (i) if the catch exceeded the quota entitlement by not more than 50 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by more than 50 kilograms but not more than 100 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (c) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing an abalone quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 100 kilograms of abalone meat in excess of the quota entitlement,

the conditions of the licence may be varied so as to decrease the abalone quota entitlement under the licence in respect of the class of abalone that was taken for 3 quota periods following the conviction by 1 kilogram for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed;

- (d) if the total catch of abalone of a particular class taken by the holder of a licence in a fishing zone during a quota period was less than the abalone quota entitlement under the licence in respect of that class of abalone, fishing zone and quota period, the Minister may vary the conditions of the licence so as to—
 - (i) increase the quota entitlement in respect of that class of abalone and fishing zone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota entitlement (but in any case by not more than 50 kilograms); and
 - (ii) prohibit any additional abalone units allocated to the licence as a result of the increase in the quota entitlement made under this paragraph from being transferred to another licence;
- (e) if—
 - (i) the holder of a licence has assisted in the carrying out of research work under the Act or repealed Act in relation to the fishery; and
 - (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,

the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;

- (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (a) or (c)) must be expressed to apply only for the quota period during which the variation is made.
- (4) For the purposes of subregulation (3)(d), in determining whether the total catch of abalone during a particular quota period was less than the abalone quota entitlement under the licence in respect of that quota period, any increase in the quota entitlement applying during that period as a result of a variation made under that subregulation must be disregarded.
- (5) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (6) The holder of a licence in respect of the fishery must not, on any 1 day, take Blacklip Abalone under the licence, or cause, suffer or permit Blacklip Abalone to be taken under the licence—
- (a) from more than 1 of the 4 areas that comprise Area S; or

(b) from both Area S and the waters of the Southern Zone outside Area S.

Maximum penalty: \$5 000.

- (7) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone in any fishing zone if the unit entitlement under the licence in respect of a class of abalone specified in column 1 of the following table, in a fishing zone specified alongside in column 2, falls below the number specified alongside in column 3.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Column 1	Column 2	Column 3
Class of abalone	Fishing zone	Unit entitlement
Blacklip Abalone	Area S	50
	The waters of the Southern Zone outside Area S	50
Greenlip Abalone	The Southern Zone	5

- (8) For the purposes of subregulation (7), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and fishing zone and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone and fishing zone in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

16—Individual catch quota system—Western Zone

- (1) In this regulation—

abalone quota entitlement or *quota entitlement*—

- (a) in relation to a licence in respect of the fishery, region A and a class of abalone—means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence in that region during a quota period, being the product of—
- (i) the unit entitlement under the licence in respect of that region and class of abalone; and
 - (ii) the unit value for that region, class of abalone and quota period, subject to any variation applying during that quota period;
- (b) in relation to a licence in respect of the fishery and region B—means the maximum number of kilograms of meat of abalone that may be lawfully taken by the holder of the licence in that region during a quota period, being the product of—
- (i) the unit entitlement under the licence in respect of that region; and
 - (ii) the unit value for that region and quota period, subject to any variation applying during that quota period;

fishery means the Western Zone Abalone Fishery;

prescribed region means region A or region B;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 January;

region A means the waters of the Western Zone east of the meridian of longitude commencing at Mean High Water Springs closest to 32°32'33.78" South, 133°51'02.21" East (Point Brown);

region B means the waters of the Western Zone west of the meridian of longitude commencing at Mean High Water Springs closest to 32°32'33.78" South, 133°51'02.21" East (Point Brown);

unit entitlement—

- (a) in relation to a licence in respect of the fishery, region A and a class of abalone—means the number of abalone units for the time being allocated to the licence in respect of that region and class of abalone;
- (b) in relation to a licence in respect of the fishery and region B—means the number of abalone units for the time being allocated to the licence in respect of that region;

unit value—

- (a) in relation to region A—means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for that region, a class of abalone and a quota period;
- (b) in relation to region B—means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for that region and a quota period.

(2) The Minister—

- (a) must determine—
 - (i) the number of kilograms of abalone meat that is to be the value of an abalone unit for region A, a class of abalone and each quota period; and
 - (ii) the number of kilograms of abalone meat that is to be the value of an abalone unit for region B and each quota period; and
 - (iii) the conversion value for a prescribed region and a class of abalone;
- (b) may from time to time vary the conversion value for a prescribed region and a class of abalone.

(3) The Minister may vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:

- (a) on joint application made to the Minister by the holders of any 2 licences subject to conditions fixing abalone quota entitlements in respect of region A and the same class of abalone, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that region and class of abalone and decrease the unit entitlement under the other licence in respect of that region and class of abalone by a corresponding number of units;

- (b) on joint application made to the Minister by the holders of any 2 licences subject to conditions fixing abalone quota entitlements in respect of region B, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that region and decrease the unit entitlement under the other licence in respect of that region by a corresponding number of units;
- (c) if the total catch of abalone of a particular class taken by the holder of a licence in region A during a quota period exceeded the abalone quota entitlement under the licence in respect of that region, class of abalone and quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement in respect of that region and class of abalone—
 - (i) if the catch exceeded the quota entitlement by not more than 50 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota entitlement;
 - (ii) if the catch exceeded the quota entitlement by more than 50 kilograms but not more than 100 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
- (d) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery in region B during a quota period exceeded the abalone quota entitlement under the licence in respect of that region and quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement in respect of that region—
 - (i) if the catch exceeded the quota entitlement by not more than 50 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota entitlement;
 - (ii) if the catch exceeded the quota entitlement by more than 50 kilograms but not more than 100 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
- (e) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing an abalone quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 100 kilograms of abalone meat—
 - (A) in excess of the quota entitlement under the licence in respect of region A and a class of abalone; or
 - (B) in excess of the quota entitlement under the licence in respect of region B,

the conditions of the licence may be varied so as to reduce the quota entitlement under the licence in respect of that region and class of abalone for 3 quota periods following the conviction by 1 kilogram for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed;

- (f) if the total catch of abalone of a particular class taken by the holder of a licence in region A during a particular quota period was less than the abalone quota entitlement under the licence in respect of that region, class of abalone and quota period, the Minister may vary the conditions of the licence so as to—
 - (i) increase the quota entitlement in respect of that region and class of abalone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota entitlement (but in any case by not more than 50 kilograms); and
 - (ii) prohibit any additional abalone units allocated to the licence as a result of the increase in the quota entitlement made under this paragraph from being transferred to another licence;
- (g) if the total catch of abalone of a particular class taken by the holder of a licence in region B during a particular quota period was less than the abalone quota entitlement under the licence in respect of that region and quota period, the Minister may vary the conditions of the licence so as to—
 - (i) increase the quota entitlement in respect of that region by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota entitlement (but in any case by not more than 50 kilograms); and
 - (ii) prohibit any additional abalone units allocated to the licence as a result of the increase in the quota entitlement made under this paragraph from being transferred to another licence;
- (h) if—
 - (i) the holder of a licence has assisted in the carrying out of research work under the Act or the repealed Act in relation to the fishery; and
 - (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;
 - (i) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (a), (b) or (e)) must be expressed to apply only for the quota period during which the variation is made.
- (4) For the purposes of subregulation (3)(f) or (g), in determining whether the total catch of abalone during a particular quota period was less than the abalone quota entitlement under the licence in respect of that quota period, any increase in the quota entitlement applying during that period as a result of a variation made under that subregulation must be disregarded.
- (5) An application to vary unit entitlements must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and completed in accordance with the instructions contained in the form; and

- (c) be accompanied by the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (6) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone in any prescribed region if the unit entitlement under the licence in respect of a class of abalone specified in column 1 of the following table, in a region specified alongside in column 2, falls below the number specified alongside in column 3.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Column 1	Column 2	Column 3
Class of abalone	Region	Unit entitlement
Blacklip Abalone	Region A	25
Greenlip Abalone	Region A	25
Blacklip and Greenlip Abalone	Region B	5

- (7) For the purposes of subregulation (6), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and region and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone and region in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

17—Only 1 registered boat to be used at any 1 time

The holder of a licence in respect of an abalone fishery must not—

- (a) use more than 1 registered boat at any 1 time to take abalone under the licence; or
- (b) cause, suffer or permit more than 1 registered boat to be used at any 1 time to take abalone under the licence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

18—Use of registered masters in fishing activities

- (1) Subject to this regulation, the holder of a licence in respect of an abalone fishery must not cause, suffer or permit more than 1 person (who must be a registered master) to engage in fishing activities under the licence on the same day.
- (2) Subregulation (1) does not prevent 1 other (and only 1 other) registered master who is a trainee diver from engaging in fishing activities under the licence on the same day as the first registered master if—
- (a) at all times while engaged in fishing activities, the trainee diver is under the direct supervision of the first registered master; and
- (b) the trainee diver does not engage in fishing activities under the licence on more than 10 days in any quota period for the abalone fishery.

- (3) In this regulation—

quota period for an abalone fishery—see regulations 14(1), 15(1) and 16(1);

trainee diver means a person with less than 30 days commercial abalone diving experience.

19—Registered boat not to be transported or towed to fishing location

The holder of a licence in respect of an abalone fishery must not cause, suffer or permit a registered boat to be transported or towed by another boat to a place at which the registered boat is to be used for the purpose of taking abalone under the licence.

Maximum penalty: \$5 000.

20—Catch and disposal records

- (1) In this regulation—

CDR book means the book issued by the Department containing blank CDR1 forms;

CDR1 form means the form produced by the Department entitled *CDR1—Department of Primary Industries (Fisheries) Abalone Catch and Disposal Record*.

- (2) The holder of a licence in respect of an abalone fishery or the registered master of a boat from which abalone is taken under such a licence must comply with the following provisions:

- (a) he or she must complete Part A of a CDR1 form in respect of abalone taken under the licence—
 - (i) if the abalone is landed on the day on which it is taken—
 - (A) immediately after the abalone is landed and within 50 metres of the place of landing; or
 - (B) if the abalone is to be delivered to the registered premises of a registered fish processor within 50 metres of the place of landing—before the abalone is delivered to the premises; or
 - (ii) in any other case—before the end of the day on which the abalone is taken;
- (b) he or she must cause the abalone to which the completed Part A of that form relates to be transported to the registered premises of the registered fish processor specified on the form, together with the 3 copies of the completed form.

- (3) If a provision of subregulation (2) is not complied with, the holder of the licence is guilty of an offence.

Maximum penalty: \$5 000.

21—Periodic returns

- (1) The holder of a licence in respect of an abalone fishery must—

- (a) complete a return, in a form determined by the Minister, in respect of each calendar month during the currency of the licence; and
- (b) include in the return such information as the Minister requires; and

- (c) date and sign the return and certify that the information contained in the return is complete and accurate, and post or deliver the return to the Minister within 15 days of the end of the month to which it relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If the holder of a licence takes no abalone under the licence during a particular calendar month, he or she is required by subregulation (1) to furnish a return in respect of that period indicating that no abalone were taken.
- (3) If an abalone fishery has been closed for a whole calendar month, the holder of a licence need not furnish a return for that month.
- (4) The holder of a licence must—
 - (a) make a copy of each return that he or she completes under this regulation before the return is sent or delivered to the Minister; and
 - (b) retain the copy for a period of 12 months from the last day of the month to which the return relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Schedule 1—Transitional provision

1—Eligibility to be granted fishery licence

- (1) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Central Zone Abalone Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (2) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Southern Zone Abalone Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (3) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Western Zone Abalone Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Formerly

Fisheries (Scheme of Management—Abalone Fisheries) Regulations 2006

Legislation revoked by principal regulations

The *Fisheries Management (Abalone Fisheries) Regulations 2006* revoked the following:

Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2006	203	<i>Gazette 24.8.2006 p2912</i>	1.9.2006: r 2
2007	24	<i>Gazette 22.3.2007 p887</i>	22.3.2007: r 2
2007	124	<i>Gazette 7.6.2007 p2477</i>	Pt 4 (r 6)—1.7.2007: r 2
2007	175	<i>Gazette 21.6.2007 p2698</i>	Pt 4 (rr 11—13)—21.6.2007: r 2
2007	278	<i>Gazette 29.11.2007 p4441</i>	1.12.2007: r 2
2008	178	<i>Gazette 26.6.2008 p2642</i>	26.6.2008: r 2
2009	305	<i>Gazette 17.12.2009 p6372</i>	17.12.2009: r 2
2013	215	<i>Gazette 29.8.2013 p3673</i>	1.9.2013: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 1	varied by 278/2007 r 4	1.12.2007
r 2	<i>omitted under the Legislation Revision and Publication Act 2002</i>	22.3.2007
r 3	varied by 278/2007 r 5(7)	1.12.2007

r 3(1)		
Act	substituted by 278/2007 r 5(1)	1.12.2007
Blacklip Abalone	inserted by 278/2007 r 5(1)	1.12.2007
Central Zone	substituted by 278/2007 r 5(1)	1.12.2007
<i>coastal waters</i>	<i>deleted by 278/2007 r 5(1)</i>	<i>1.12.2007</i>
conversion value	varied by 278/2007 r 5(2)	1.12.2007
Greenlip Abalone	inserted by 278/2007 r 5(3)	1.12.2007
<i>licence period</i>	<i>deleted by 278/2007 r 5(3)</i>	<i>1.12.2007</i>
Mean High Water Springs	inserted by 278/2007 r 5(3)	1.12.2007
<i>revoked regulations</i>	<i>deleted by 278/2007 r 5(4)</i>	<i>1.12.2007</i>
<i>SARDI</i>	<i>deleted by 278/2007 r 5(4)</i>	<i>1.12.2007</i>
Southern Zone	substituted by 278/2007 r 5(5)	1.12.2007
Western Zone	substituted by 278/2007 r 5(5)	1.12.2007
r 3(4)	varied by 278/2007 r 5(6)	1.12.2007
r 4	varied by 278/2007 r 6	1.12.2007
r 6	substituted by 278/2007 r 7	1.12.2007
r 7	substituted by 278/2007 r 7	1.12.2007
r 7(3)	varied by 178/2008 r 4	26.6.2008
<i>r 8 before substituted by 278/2007</i>		
r 8(6)	<i>substituted by 175/2007 r 11(1)</i>	<i>21.6.2007</i>
r 8(8)	<i>varied by 175/2007 r 11(2)</i>	<i>21.6.2007</i>
rr 8 and 9	substituted by 278/2007 r 7	1.12.2007
<i>rr 10—13</i>	<i>deleted by 278/2007 r 7</i>	<i>1.12.2007</i>
r 14		
r 14(1)		
<i>abalone quota</i>	<i>deleted by 278/2007 r 8(1)</i>	<i>1.12.2007</i>
abalone quota entitlement or quota entitlement	inserted by 278/2007 r 8(1)	1.12.2007
<i>prescribed period</i>	<i>deleted by 278/2007 r 8(2)</i>	<i>1.12.2007</i>
quota period	inserted by 278/2007 r 8(2)	1.12.2007
unit value	varied by 278/2007 r 8(3), (4)	1.12.2007
r 14(2)	substituted by 278/2007 r 8(5)	1.12.2007
r 14(3)	substituted by 278/2007 r 8(5)	1.12.2007
	varied by 178/2008 r 5	26.6.2008
	varied by 305/2009 r 4(1)—(4)	17.12.2009
r 14(4) and (5)	substituted by 278/2007 r 8(5)	1.12.2007
r 14(6)	inserted by 278/2007 r 8(5)	1.12.2007
	varied by 305/2009 r 4(5), (6)	17.12.2009
r 14(7)	inserted by 278/2007 r 8(5)	1.12.2007
r 15		

Fisheries Management (Abalone Fisheries) Regulations 2006—17.12.2009 to 31.8.2013

Legislative history

r 15(1)		
<i>abalone quota</i>	<i>deleted by 278/2007 r 9(1)</i>	<i>1.12.2007</i>
abalone quota entitlement or quota entitlement	inserted by 278/2007 r 9(1)	1.12.2007
area 1	substituted by 278/2007 r 9(1)	1.12.2007
area 2	substituted by 278/2007 r 9(1)	1.12.2007
area 3	substituted by 278/2007 r 9(1)	1.12.2007
area 4	substituted by 278/2007 r 9(1)	1.12.2007
<i>prescribed period</i>	<i>deleted by 278/2007 r 9(2)</i>	<i>1.12.2007</i>
quota period	inserted by 278/2007 r 9(2)	1.12.2007
unit value	varied by 278/2007 r 9(3), (4)	1.12.2007
r 15(2)	substituted by 278/2007 r 9(5)	1.12.2007
r 15(3)	substituted by 278/2007 r 9(5)	1.12.2007
	varied by 305/2009 r 5(1)—(4)	17.12.2009
r 15(4) and (5)	substituted by 278/2007 r 9(5)	1.12.2007
r 15(6)	varied by 278/2007 r 9(6)—(8)	1.12.2007
r 15(7)	inserted by 278/2007 r 9(9)	1.12.2007
	varied by 305/2009 r 5(5)	17.12.2009
r 15(8)	inserted by 278/2007 r 9(9)	1.12.2007
r 16		
r 16(1)		
<i>abalone quota</i>	<i>deleted by 278/2007 r 10(1)</i>	<i>1.12.2007</i>
abalone quota entitlement or quota entitlement	inserted by 278/2007 r 10(1)	1.12.2007
	substituted by 178/2008 r 6(1)	26.6.2008
<i>prescribed period</i>	<i>deleted by 278/2007 r 10(2)</i>	<i>1.12.2007</i>
quota period	inserted by 278/2007 r 10(3)	1.12.2007
region A	substituted by 278/2007 r 10(4)	1.12.2007
region B	substituted by 278/2007 r 10(4)	1.12.2007
unit value	varied by 278/2007 r 10(5), (6)	1.12.2007
r 16(2)	substituted by 278/2007 r 10(7)	1.12.2007
r 16(3)	substituted by 278/2007 r 10(7)	1.12.2007
	varied by 178/2008 r 6(2)	26.6.2008
	varied by 305/2009 r 6(1)—(7)	17.12.2009
r 16(4) and (5)	substituted by 278/2007 r 10(7)	1.12.2007
r 16(6)	inserted by 278/2007 r 10(7)	1.12.2007
	varied by 305/2009 r 6(8)	17.12.2009
r 16(7)	inserted by 278/2007 r 10(7)	1.12.2007
r 17	substituted by 24/2007 r 4	22.3.2007
	varied by 278/2007 r 11(1), (2)	1.12.2007
r 18	substituted by 24/2007 r 4	22.3.2007
	varied by 278/2007 r 12(1), (2)	1.12.2007

	substituted by 305/2009 r 7	17.12.2009
r 19	varied by 278/2007 r 13(1), (2)	1.12.2007
r 20		
r 20(2)	varied by 278/2007 r 14(1)	1.12.2007
r 20(3)	varied by 278/2007 r 14(2)	1.12.2007
r 21		
r 21(1)	varied by 278/2007 r 15(1)—(3)	1.12.2007
r 21(2)	varied by 278/2007 r 15(4)	1.12.2007
r 21(4)	varied by 278/2007 r 15(5), (6)	1.12.2007
Sch 1	substituted by 175/2007 r 12	21.6.2007
	varied by 124/2007 r 6(1), (2)	1.7.2007
	substituted by 278/2007 r 16	1.12.2007
<i>Sch 2</i>	<i>deleted by 278/2007 r 16</i>	<i>1.12.2007</i>

Transitional etc provisions associated with regulations or variations

Fisheries (Fees No 2) Variation Regulations 2007 (No 175 of 2007)

13—Transitional provision

- (1) A fee prescribed by Schedule 1 of the principal regulations as substituted by this Part applies in relation to the licence period commencing on 1 July 2007.
- (2) Despite regulation 12, a fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to the licence period that commenced on 1 July 2006.

Historical versions

22.3.2007
21.6.2007 (electronic only)
1.7.2007
1.12.2007
26.6.2008