

South Australia

Fisheries (Scheme of Management—Abalone Fisheries) Variation Regulations 2003

under the *Fisheries Act 1982*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Abalone Fisheries) Variation Regulations 2003*.

2—Commencement

These regulations will come into operation on 1 September 2003.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991*

4—Variation of regulation 4—Interpretation

- (1) Regulation 4(1)—after the definition of *coastal waters* insert:

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

- (2) Regulation 4(1), definition of *meat*—delete the definition

- (3) Regulation 4—after subregulation (5) insert:

- (6) In these regulations—

- (a) *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;
- (b) *whole*, in relation to an abalone, means the whole of the abalone including the meat, viscera and shell.

5—Insertion of regulation 4A

After regulation 4 insert:

4A—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 Director for the time being.

6—Insertion of regulation 10B

After regulation 10A insert:

10B—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 fish pursuant to the licence.

Penalty: Division 6 fine.

7—Insertion of regulation 11A

After regulation 11 insert:

11A—Only one registered master to be engaged in fishing activities

Where—

- (a) two boats are registered by endorsement of a licence in respect of an abalone fishery; and
- (b) different persons are registered by endorsement of the licence as the masters of those boats,

the holder of the licence must not cause, suffer or permit both persons to engage in fishing activities pursuant to the licence on the same day.

Penalty: Division 6 fine.

8—Variation of regulation 13—Individual catch quota system—Western Zone

- (1) Regulation 13(1), definitions of *conversion value* and *whole*—delete the definitions
- (2) Regulation 13(5)—delete subregulation (5)

9—Variation of regulation 13A—Individual catch quota system—Central Zone

- (1) Regulation 13A(1), definition of *abalone quota*—delete "a fishery" and substitute:
the fishery
- (2) Regulation 13A(1), definition of *fishery*—delete "or the Southern Zone Abalone Fishery"
- (3) Regulation 13A(1), definition of *prescribed period*—delete the definition and substitute:
prescribed period means a calendar year;
- (4) Regulation 13A(1), definition of *unit entitlement*—delete "a fishery" and substitute:
the fishery
- (5) Regulation 13A(1), definition of *unit value*—delete "a fishery" and substitute:
the fishery
- (6) Regulation 13A(2)—delete "a fishery" wherever occurring and substitute in each case:
the fishery
- (7) Regulation 13A(2)(b)—delete paragraph (b) and substitute:
 - (b) the Director must, on the commencement of each prescribed period—
 - (i) determine 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 the prescribed period; and

- (ii) determine the conversion value for the fishery and a class of abalone;
- (ba) the Director may, from time to time, vary the conversion value for the fishery and a class of abalone;
- (8) Regulation 13A(2)(c)—delete "same"
- (9) Regulation 13A(3)(a)—delete "a fishery" and substitute:
the fishery

10—Insertion of regulations 13B and 13C

After regulation 13A insert:

13B—Individual catch quota system—Southern Zone

- (1) In this regulation—

abalone quota, 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 prescribed period, being the product of—

- (a) the unit entitlement of 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 prescribed period,

subject to any variation of the quota of the licence in respect of that class of abalone and fishing zone applying during that prescribed period;

Area S means the area comprised of the four areas defined in Schedule 3;

fishery means the Southern Zone Abalone Fishery;

fishing zone means—

- (a) the Southern Zone; or
- (b) Area S; or
- (c) any one, two or three of the areas comprising Area S; or
- (d) the waters of the Southern Zone outside Area S;

prescribed period means the period of 12 months commencing on 1 September in any year;

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 Director to be the value of an abalone unit for a fishing zone, a class of abalone and a prescribed period.

- (2) The Director may impose or vary conditions on licences in respect of the fishery fixing abalone quotas as follows:
- (a) all licences in respect of the fishery must be allocated the same number of abalone units in respect of the same class of abalone and fishing zone (but the number of units may vary as between different classes of abalone and fishing zones);
 - (b) the Director must, on the commencement of each prescribed period—
 - (i) determine 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 the prescribed period; and
 - (ii) determine the conversion value for a fishing zone and a class of abalone;
 - (c) the Director may, from time to time, vary the conversion value for a fishing zone and a class of abalone;
 - (d) the conditions of any two licences in respect of the fishery may, on application made to the Director by the holders of those licences in a manner and form approved by the Director, be varied so as to increase the unit entitlement of one of the licences in respect of a particular class of abalone and fishing zone and decrease the unit entitlement of the other licence in respect of that class of abalone and fishing zone by a corresponding number of units;
 - (e) the Director may, if the total catch of abalone of a particular class of abalone taken pursuant to a licence in a fishing zone during a prescribed period exceeded the abalone quota of the licence in respect of that class of abalone, fishing zone and prescribed period, vary the conditions of the licence so as to decrease the quota in respect of that class of abalone and fishing zone—
 - (i) where the catch exceeded the quota by not more than 10 kilograms of abalone meat—by one kilogram for each kilogram in excess of the quota; or
 - (ii) where the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by two kilograms for each kilogram in excess of the quota;
 - (f) the Director may, if—
 - (i) the holder of a licence in respect of the fishery has assisted in the carrying out of research work under the Act in relation to the fishery; and

- (ii) the Director considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,
vary the conditions of the licence so as to increase the quota of the licence in respect of a class of abalone;
 - (g) any variation of—
 - (i) a unit entitlement made under paragraph (d); or
 - (ii) an abalone quota made under paragraph (e) or (f),
must be expressed to apply only for the prescribed period during which the variation is made;
 - (h) unit entitlements and abalone quotas must not be varied except as provided by this regulation.
- (3) If—
- (a) a court convicts the holder of a licence in respect of the fishery of an offence of contravening a condition of the licence imposing an abalone quota on the licence; and
 - (b) the conduct constituting the offence involved the taking of more than 50 kilograms of abalone meat in excess of the quota,
the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the abalone quota of the licence in respect of the class of abalone that was taken in excess of the quota for three prescribed periods following the conviction by one kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.
- (4) The holder of a licence in respect of the fishery must not, on any one day, take abalone pursuant to the licence, or cause, suffer or permit abalone to be taken pursuant to the licence—
- (a) from more than one of the four areas that comprise Area S;
or
 - (b) from more than one of the following fishing zones:
 - (i) Area S;
 - (ii) the waters of the Southern Zone outside Area S.

Penalty: Division 6 fine.

13C—Catch and disposal records

- (1) In this regulation—

CDR book means a book issued by the Department of Primary Industries and Resources containing blank forms CDR1;

form CDR1 means the document produced by the Department of Primary Industries and Resources 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 registered master of a boat from which abalone is taken pursuant to such a licence must comply with the following provisions:
- (a) he or she must complete Part A of a form CDR1 in triplicate in respect of abalone taken pursuant to the licence using a blue or black ballpoint pen—
 - (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;
 - (c) he or she must deliver a completed CDR book to the Director within 14 days of its completion.
- (3) If a provision of subregulation (2) is not complied with, the holder of the licence is guilty of an offence.

Penalty: Division 6 fine.

11—Insertion of Schedule 3

After Schedule 2 insert:

Schedule 3—Area S

1—Area 1

Those waters adjacent to the coast of Nene Valley which are contained within a line commencing at the high water mark at position latitude 37°59.3'S, 140°30.7'E then due south for approximately 2.9 nautical miles to position latitude 38°02.4'S, longitude 140°30.7'E then generally south east for approximately 2.7 nautical miles to position latitude 38°04.4'S, longitude 140°34.2'E then due north for approximately 2.6 nautical miles to high water mark at position latitude 38°01.4'S, longitude 140°34.2'E then generally north westerly following high water mark back to the point of commencement.

2—Area 2

Those waters adjacent to the coast at Brown and Riddoch Bays which are contained between the meridians of longitude 140°45'E and longitude 140°55'E extending seawards for three nautical miles from the high water mark.

3—Area 3

Those waters of Ringwood Reef bounded by a line commencing at latitude 37°31.95'S longitude 140°01.3'E then in generally easterly direction to a point of latitude 37°31.95'S longitude 140°02.6'E then in a southerly direction to a point latitude 37°32.5'E longitude 140°02.6'E then in generally westerly direction to a point latitude 37°32.3'S longitude 140°01.3'E then in a generally northerly direction to the point of commencement.

4—Area 4

Those waters bounded by a line commencing at the high water mark on Rapid Point latitude 37°55.7'S longitude 140°23.38'E, then in a generally south westerly direction to position latitude 37°56'S longitude 140°21.5'E, then in a generally south easterly direction to position latitude 37°58.5'S longitude 140°26'E, then in north easterly direction to Blackfellows Caves in latitude 37°57'S longitude 140°28.2'E, then north westerly direction back to the point of commencement.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations

Made by the Governor

with the advice and consent of the Executive Council
on 28 August 2003

No 185 of 2003

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