

South Australia

Fisheries (Schemes of Management) Variation Regulations 2004

under the *Fisheries Act 1982*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Fisheries (General) Regulations 2000*

- 4 Variation of Schedule 9—Expiation of offences

Part 3—Variation of *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991*

- 5 Variation of regulation 4—Interpretation
- 6 Variation of regulation 9—Transfer of licence
- 7 Variation of regulation 10—Registration of boats
- 8 Variation of regulation 11—Registration as master
- 9 Variation of regulation 14—Furnishing of returns
- 10 Variation of Schedule 2—Information required in application for consent to licence transfer

Part 4—Variation of *Fisheries (Scheme of Management—Blue Crab Fishery) Regulations 1998*

- 11 Variation of regulation 4—Interpretation
- 12 Variation of regulation 10—Transfer of licence
- 13 Variation of regulation 11—Registration of boats
- 14 Variation of regulation 12—Registration as master
- 15 Variation of regulation 17—Furnishing of returns
- 16 Variation of Schedule 3—Information required in application for consent to licence transfer

Part 5—Variation of *Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 1991*

- 17 Variation of regulation 4—Interpretation
- 18 Variation of regulation 9—Transfer of licence
- 19 Variation of regulation 10—Registration of boats
- 20 Substitution of regulation 11
 - 11 Registration as master
- 21 Substitution of regulations 15 and 16
 - 15 Use of agents in fishing activities on the shore
 - 16 Use of agents in fishing activities on boats

- 22 Variation of regulation 17—Furnishing of returns
- 23 Variation of Schedule 2—Information required in application for consent to licence transfer

Part 6—Variation of *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991*

- 24 Variation of regulation 4—Interpretation
- 25 Variation of regulation 10—Transfer of licences
- 26 Variation of regulation 10B—Transfer of licences under amalgamation scheme
- 27 Substitution of regulation 12
 - 12 Registration as master
- 28 Variation of regulation 14—Registered master may be assisted by only one agent
- 29 Substitution of regulation 15
 - 15 Use of agents in fishing activities on the shore
- 30 Variation of regulation 16—Furnishing of returns
- 31 Variation of Schedule 3—Information required in application for consent to licence transfer

Part 7—Variation of *Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations 2000*

- 32 Variation of regulation 4—Interpretation
- 33 Variation of regulation 6—Issue of licences
- 34 Variation of regulation 12—Registration of boats
- 35 Substitution of regulation 13
 - 13 Registration as master
- 36 Substitution of regulation 15
 - 15 Use of agents in fishing activities on the shore
- 37 Variation of regulation 16—Furnishing of returns
- 38 Variation of Schedule 3—Information required to be included in application for licence

Part 8—Variation of *Fisheries (Scheme of Management—Prawn Fisheries) Regulations 1991*

- 39 Variation of regulation 4—Interpretation
- 40 Variation of regulation 9—Registration of boats
- 41 Substitution of regulation 10
 - 10 Registration as master
- 42 Variation of regulation 12—Transfer of licence
- 43 Variation of regulation 13—Furnishing of returns
- 44 Variation of Schedule 3—Information required in application for consent to licence transfer

Part 9—Variation of *Fisheries (Scheme of Management—River Fishery) Regulations 1991*

- 45 Variation of regulation 11—Registration of boats
- 46 Variation of regulation 12—Registration as master
- 47 Variation of regulation 14—Use of agents in fishing activities on the shore
- 48 Variation of regulation 15—Furnishing of returns

Part 10—Variation of *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991*

- 49 Variation of regulation 4—Interpretation

50	Variation of regulation 9—Transfer of licence
51	Variation of regulation 10—Registration of boats
52	Substitution of regulation 12 12 Registration as master
53	Variation of Schedule 3—Information required in application for consent to licence transfer

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries (Schemes of Management) Variation Regulations 2004*.

2—Commencement

These regulations come into operation on the day on which they are made.

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 (General) Regulations 2000*

4—Variation of Schedule 9—Expiation of offences

Schedule 9—delete the table containing items relating to regulations prescribing schemes of management for the abalone fisheries, Blue Crab Fishery, Lakes and Coorong Fishery, marine scalefish fisheries, Miscellaneous Fishery, prawn fisheries and River Fishery

Part 3—Variation of *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991*

5—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *director*—delete the definition and substitute:

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;
- (2) Regulation 4(1), definition of *proprietary company*—delete the definition
- (3) Regulation 4(2) and (3)—delete subregulations (2) and (3) and substitute:
 - (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.

6—Variation of regulation 9—Transfer of licence

- (1) Regulation 9(4)—after paragraph (b) insert:
 - (c) where the transferee is a company—a current company extract relating to the transferee issued not more than one month immediately preceding the date of application; and
- (2) Regulation 9(5)(d)(ii)—delete "proprietary"
- (3) Regulation 9(5)(g) and (h)—delete paragraphs (g) and (h)

7—Variation of regulation 10—Registration of boats

Regulation 10(1)—delete "in" first occurring and substitute:
pursuant to a licence in respect of

8—Variation of regulation 11—Registration as master

Regulation 11—after "boat" insert:
used pursuant to a licence in respect of an abalone fishery

9—Variation of regulation 14—Furnishing of returns

Regulation 14(1)—delete the penalty provision and substitute:
Penalty: Division 6 fine.
Expiation fee: Division 9 fee.

10—Variation of Schedule 2—Information required in application for consent to licence transfer

Schedule 2, clause 9—delete the clause and substitute:

- 9 Statements by the transferee as to—
 - (a) whether or not the transferee, or where the transferee is a company, a director of the company, has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and

- (b) whether or not the transferee, or where the transferee is a company, a director of the company, has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the transferee or director in a court of a State or Territory of the Commonwealth.

Part 4—Variation of *Fisheries (Scheme of Management—Blue Crab Fishery) Regulations 1998*

11—Variation of regulation 4—Interpretation

- (1) Regulation 4(1)—after the definition of *blue crab quota* insert:

Corporations Act means the *Corporations Act 2001* of the Commonwealth;
- (2) Regulation 4(1)—after the definition of *crab pot* insert:

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;
- (3) Regulation 4(1), definition of *director*—delete the definition
- (4) Regulation 4(2) and (3)—delete subregulations (2) and (3) and substitute:
 - (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.

12—Variation of regulation 10—Transfer of licence

- (1) Regulation 10(4)—after paragraph (b) insert:
 - (ba) where the transferee is a company—a current company extract relating to the transferee issued not more than one month immediately preceding the date of application; and
- (2) Regulation 10(5)(d)(ii)—delete "proprietary"
- (3) Regulation 10(5)(g) and (h)—delete paragraphs (g) and (h)

13—Variation of regulation 11—Registration of boats

Regulation 11(1)—delete "in the fishery" and substitute:
pursuant to a licence in respect of the fishery

14—Variation of regulation 12—Registration as master

Regulation 12—after "boat" insert:
used pursuant to a licence in respect of the fishery

15—Variation of regulation 17—Furnishing of returns

Regulation 17(1)—delete the penalty provision and substitute:
Penalty: Division 6 fine.
Expiation fee: Division 9 fee.

16—Variation of Schedule 3—Information required in application for consent to licence transfer

Schedule 3, clause 9—delete the clause and substitute:

- 9 Statements by the transferee as to—
- (a) whether or not the transferee, or where the transferee is a company, a director of the company, has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and
 - (b) whether or not the transferee, or where the transferee is a company, a director of the company, has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the transferee or director in a court of a State or Territory of the Commonwealth.

Part 5—Variation of *Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 1991*

17—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *director*—delete the definition
- (2) Regulation 4(2) and (3)—delete subregulations (2) and (3)

18—Variation of regulation 9—Transfer of licence

Regulation 9(5)(f) and (g)—delete paragraphs (f) and (g)

19—Variation of regulation 10—Registration of boats

Regulation 10(1)—delete "in the fishery" and substitute:
pursuant to a licence in respect of the fishery

20—Substitution of regulation 11

Regulation 11—delete the regulation and substitute:

11—Registration as master

- (1) An application for registration of a person as the master of a boat used pursuant to a licence in respect of the fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.
- (2) A person other than the holder of the licence cannot be registered as the master of a boat used pursuant to the licence unless the holder of the licence is already registered as the master of a boat used pursuant to a fishery licence.

21—Substitution of regulations 15 and 16

Regulations 15 and 16—delete regulations 15 and 16 and substitute:

15—Use of agents in fishing activities on the shore

- (1) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
 - (a) the holder of the licence or the registered master is at the same time also engaged on the shore in a fishing activity of a class that constitutes the fishery; and
 - (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 700 metres of each other.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (2) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on the shore as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

16—Use of agents in fishing activities on boats

- (1) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on a boat as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
 - (a) the holder of the licence or the registered master is at the same time also engaged on a registered boat in a fishing activity of a class that constitutes the fishery; and
 - (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 500 metres of each other.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (2) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on a boat as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (3) A boat used by a person as the agent of the holder of a licence in respect of the fishery in a fishing activity of a class that constitutes the fishery need not be registered if the boat is marked with the same distinguishing mark and in the same way as a boat registered by endorsement of the licence.
- (4) An unregistered boat that is marked as referred to in subregulation (3) need not be in the charge of a registered master.

22—Variation of regulation 17—Furnishing of returns

Regulation 17(1)—delete the penalty provision and substitute:

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

23—Variation of Schedule 2—Information required in application for consent to licence transfer

Schedule 2, clause 9—delete the clause and substitute:

- 9 Statements by the transferee as to—
 - (a) whether or not the transferee has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and

- (b) whether or not the transferee has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the transferee in a court of a State or Territory of the Commonwealth.

Part 6—Variation of Fisheries (Scheme of Management— Marine Scalefish Fisheries) Regulations 1991

24—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *director*—delete the definition
- (2) Regulation 4(2) and (3)—delete subregulations (2) and (3)

25—Variation of regulation 10—Transfer of licences

Regulation 10(6)(b)(vi)—delete subparagraph (vi)

26—Variation of regulation 10B—Transfer of licences under amalgamation scheme

Regulation 10B(5)(g)—delete paragraph (g) and substitute:

- (g) when, as a result of the process referred to in paragraphs (a) to (f), the fishing points value endorsed on a licence under this regulation equals or exceeds 26, the licence may be transferred without complying with those paragraphs;

27—Substitution of regulation 12

Regulation 12—delete the regulation and substitute:

12—Registration as master

- (1) An application for registration of a person as the master of a boat used pursuant to a licence in respect of a marine scalefish fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.
- (2) A person other than the holder of the licence cannot be registered as the master of a boat used pursuant to the licence unless the holder of the licence is already registered as the master of a boat used pursuant to a licence in respect of a marine scalefish fishery.

28—Variation of regulation 14—Registered master may be assisted by only one agent

Regulation 14—delete the penalty provision and substitute:

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

29—Substitution of regulation 15

Regulation 15—delete the regulation and substitute:

15—Use of agents in fishing activities on the shore

- (1) The holder of a licence in respect of a marine scalefish fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
 - (a) the holder of the licence or the registered master is at the same time also engaged on the shore in a fishing activity of a class that constitutes the fishery; and
 - (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 700 metres of each other.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (2) The holder of a licence in respect of the Marine Scalefish Fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on the shore as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (3) The holder of a licence in respect of the Restricted Marine Scalefish Fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 1 person to be engaged at the same time on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

30—Variation of regulation 16—Furnishing of returns

Regulation 16(1)—delete the penalty provision and substitute:

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

31—Variation of Schedule 3—Information required in application for consent to licence transfer

Schedule 3, clause 9—delete the clause and substitute:

- 9 Statements by the transferee as to—

- (a) whether or not the transferee has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and
- (b) whether or not the transferee has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the transferee in a court of a State or Territory of the Commonwealth.

Part 7—Variation of *Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations 2000*

32—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *director*—delete the definition and substitute:

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;
- (2) Regulation 4(2) and (3)—delete subregulations (2) and (3) and substitute:
- (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.

33—Variation of regulation 6—Issue of licences

- (1) Regulation 6(4)—after paragraph (c) insert:

- (d) be verified by the applicant by statutory declaration; and
- (e) where the applicant is a company—be accompanied by a current company extract relating to the applicant issued not more than one month immediately preceding the date of application.

- (2) Regulation 6(5)—delete subregulation (5) and substitute:
- (5) Before granting a licence in respect of the fishery the Director must be satisfied of the following matters:
- (a) that the applicant is—
 - (i) a natural person of at least 15 years or age; or
 - (ii) a company;
 - (b) that the applicant was a successful applicant for the licence at a tender conducted in accordance with the procedure prescribed by Schedule 2;
 - (c) that no conviction for an offence involving a breach of any legislation relating to fishing has, within the period of three years preceding the date of the application, been recorded in the State or elsewhere in Australia against the applicant, or, where the applicant is a company, against a director of the company;
 - (d) that no proceedings alleging an offence involving a breach of any legislation relating to fishing are pending or likely to be commenced in the State or elsewhere in Australia against the applicant, or, where the applicant is a company, against a director of the company.

34—Variation of regulation 12—Registration of boats

Regulation 12(1)—delete "in the fishery" and substitute:
pursuant to a licence in respect of the fishery

35—Substitution of regulation 13

Regulation 13—delete the regulation and substitute:

13—Registration as master

An application for registration of a person as the master of a boat used pursuant to a licence in respect of the fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.

36—Substitution of regulation 15

Regulation 15—delete the regulation and substitute:

15—Use of agents in fishing activities on the shore

- (1) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
 - (a) the holder of the licence or the registered master is at the same time also engaged on the shore in a fishing activity of a class that constitutes the fishery; and
 - (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 700 metres of each other.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (2) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on the shore as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

37—Variation of regulation 16—Furnishing of returns

Regulation 16(1)—delete the penalty provision and substitute:

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

38—Variation of Schedule 3—Information required to be included in application for licence

Schedule 3, clause 6—delete the clause and substitute:

- 6 Statements by the applicant as to—
 - (a) whether or not the applicant, or where the applicant is a company, a director of the company, has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and

- (b) whether or not the applicant, or where the applicant is a company, a director of the company, has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the applicant or director in a court of a State or Territory of the Commonwealth.

Part 8—Variation of *Fisheries (Scheme of Management—Prawn Fisheries) Regulations 1991*

39—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *director*—delete the definition and substitute:

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;
- (2) Regulation 4(1), definition of *proprietary company*—delete the definition
 - (3) Regulation 4(2) and (3)—delete subregulations (2) and (3) and substitute:
 - (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.

40—Variation of regulation 9—Registration of boats

Regulation 9(1)—delete "in a prawn fishery" and substitute:

pursuant to a licence in respect of a prawn fishery

41—Substitution of regulation 10

Regulation 10—delete the regulation and substitute:

10—Registration as master

An application for registration of a person as the master of a boat used pursuant to a licence in respect of a prawn fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.

42—Variation of regulation 12—Transfer of licence

(1) Regulation 12(5)—after paragraph (b) insert:

(c) where the transferee is a company—a current company extract relating to the transferee issued not more than one month immediately preceding the date of application; and

(2) Regulation 12(6)(d)(ii)—delete "proprietary"

(3) Regulation 12(6)(g) and (h)—delete paragraphs (g) and (h)

43—Variation of regulation 13—Furnishing of returns

Regulation 13(1)—delete the penalty provision and substitute:

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

44—Variation of Schedule 3—Information required in application for consent to licence transfer

Schedule 3, clause 9—delete the clause and substitute:

9 Statements by the transferee as to—

- (a) whether or not the transferee, or where the transferee is a company, a director of the company, has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and
- (b) whether or not the transferee, or where the transferee is a company, a director of the company, has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the transferee or director in a court of a State or Territory of the Commonwealth.

Part 9—Variation of *Fisheries (Scheme of Management—River Fishery) Regulations 1991*

45—Variation of regulation 11—Registration of boats

Regulation 11(1)—delete "in the fishery" and substitute:
pursuant to a licence in respect of the fishery

46—Variation of regulation 12—Registration as master

Regulation 12—after "boat" insert:
used pursuant to a licence in respect of the fishery

47—Variation of regulation 14—Use of agents in fishing activities on the shore

Regulation 14—delete the penalty provision and substitute:
Penalty: Division 6 fine.
Expiation fee: Division 9 fee.

48—Variation of regulation 15—Furnishing of returns

Regulation 15(1)—delete the penalty provision and substitute:
Penalty: Division 6 fine.
Expiation fee: Division 9 fee.

Part 10—Variation of *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991*

49—Variation of regulation 4—Interpretation

- (1) Regulation 4(1), definition of *director*—delete the definition and substitute:

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;

- (2) Regulation 4(2) and (3)—delete subregulations (2) and (3) and substitute:
- (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.

50—Variation of regulation 9—Transfer of licence

- (1) Regulation 9(5)—after paragraph (b) insert:
- (c) where the transferee is a company—a current company extract relating to the transferee issued not more than one month immediately preceding the date of application; and
- (2) Regulation 9(6)(d) to (g)—delete paragraphs (d) to (g) (inclusive) and substitute:
- (d) that the transferee is—
- (i) a natural person of at least 15 years of age; or
- (ii) a company;
- (e) that no conviction for an offence involving a breach of any legislation relating to fishing has, within the period of three years preceding the date of the application, been recorded in the State or elsewhere in Australia against the transferee, or, where the transferee is a company, against a director of the company;
- (f) that no proceedings alleging an offence involving a breach of any legislation relating to fishing are pending or likely to be commenced in the State or elsewhere in Australia against the transferee, or, where the transferee is a company, against a director of the company;

51—Variation of regulation 10—Registration of boats

Regulation 10(1)—delete "in a rock lobster fishery" and substitute:
pursuant to a licence in respect of a rock lobster fishery

52—Substitution of regulation 12

Regulation 12—delete the regulation and substitute:

12—Registration as master

An application for registration of a person as the master of a boat used pursuant to a licence in respect of a rock lobster fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.

53—Variation of Schedule 3—Information required in application for consent to licence transfer

Schedule 3, clause 9—delete the clause and substitute:

9 Statements by the transferee as to—

Fisheries (Schemes of Management) Variation Regulations 2004

Part 10—Variation of *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991*

- (a) whether or not the transferee, or where the transferee is a company, a director of the company, has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and
- (b) whether or not the transferee, or where the transferee is a company, a director of the company, has, at the date of the application, any proceedings alleging an offence involving a breach of legislation relating to fishing pending or likely to be commenced against the transferee or director in a court of a State or Territory of the Commonwealth.

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 19 February 2004

No 9 of 2004

MAFF03/0025CS