

South Australia

Fisheries (Scheme of Management—Rock Lobster Fisheries) Variation Regulations 2007

under the *Fisheries Management Act 2007*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Rock Lobster Fisheries) Variation Regulations 2007*.

2—Commencement

These regulations will come into operation on the day on which Part 6 Division 1 of the *Fisheries Management Act 2007* comes into operation.

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—Rock Lobster Fisheries) Regulations 2006*

4—Variation of regulation 1—Short title

Regulation 1—delete "*Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations*" and substitute:

Fisheries Management (Rock Lobster Fisheries) Regulations

5—Variation of regulation 3—Interpretation

- (1) Regulation 3(1), definition of *Act*—delete the definition and substitute:

Act means the *Fisheries Management Act 2007*;

- (2) Regulation 3(1), definition of *bait net*—delete "*Fisheries (General) Regulations 2000*" and substitute:

Fisheries Management (General) Regulations 2007

- (3) Regulation 3(1), definitions of *coastal waters* and *closed season*—delete the definitions

- (4) Regulation 3(1), definition of *licence period*—delete the definition and substitute:

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;

- (5) Regulation 3(1), definition of *mesh net*—delete "*Fisheries (General) Regulations 2000*" and substitute:

Fisheries Management (General) Regulations 2007

- (6) Regulation 3(1), definitions of *non-commercial purpose* and *Northern Zone*—delete the definitions and substitute:

Northern Zone means the waters adjacent to South Australia westerly of a line commencing at Mean High Water Springs closest to 35°37'03.86" South, 139°00'00.00" East, then southerly to 36°20'00.00" South, 139°00'00.00" East, then westerly to 36°20'00.00" South, 138°40'00.00" East, then southerly to 36°40'00.00" South 138°0'00.00" East, then westerly to 36°40'00.00" South 138°20'00.00" East, then southerly to 37°00'00.00" South 138°20'00.00" East, then westerly to 37°00'00.00" South 138°00'00.00" East;

- (7) Regulation 3(1), definition of *the revoked regulations*—delete the definition
- (8) Regulation 3(1), definition of *rock lobster*—delete "southern rock lobster" and substitute:

Southern Rocklobster

- (9) Regulation 3(1), definition of *rock lobster pot entitlement*—delete "pursuant to" and substitute:

under

- (10) Regulation 3(1), definition of *SARDI*—delete the definition

- (11) Regulation 3(1), definition of *Southern Zone*—delete the definition and substitute:

Southern Zone means the waters adjacent to South Australia easterly of a line commencing at Mean High Water Springs closest to 35°37'03.86" South, 139°00'00.00" East, then southerly to 36°20'00.00" South, 139°00'00.00" East, then westerly to 36°20'00.00" South, 138°40'00.00" East, then southerly to 36°40'00.00" South 138°0'00.00" East, then westerly to 36°40'00.00" South 138°20'00.00" East, then southerly to 37°00'00.00" South 138°20'00.00" East, then westerly to 37°00'00.00" South 138°00'00.00" East;

- (12) Regulation 3(1), definition of *Victorian licence*—delete "fish" and substitute:

aquatic resources

- (13) Regulation 3(3)—delete "fish" wherever occurring and substitute in each case:

aquatic resources

- (14) Regulation 3—after subregulation (3) insert:

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.

6—Variation of regulation 4—Constitution of fisheries

- (1) Regulation 4(2)(b)—delete "fish" and substitute:
aquatic resources
- (2) Regulation 4(2)(c)—delete "razor fish" and substitute:
Razorfish
- (3) Regulation 4(3)(b)—delete "fish" and substitute:
aquatic resources
- (4) Regulation 4(3)(c)—delete "razor fish" and substitute:
Razorfish

7—Substitution of regulations 5 to 10

Regulations 5 to 10 (inclusive)—delete the regulations and substitute:

5—Maximum number of licences that may be in force

- (1) The maximum number of licences that may be in force in respect of the Northern Zone Rock Lobster 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 Rock Lobster Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

6—Transfer of licence

- (1) Licences in respect of a rock lobster 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 24 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:
 - (a) that any fees or other amounts payable in relation to the licence under the Act or the repealed Act have been paid in full;
 - (b) that the licence to be transferred has not been suspended;
 - (c) 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;

- (d) that the transfer is to 1 person only;
- (e) 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 a rock lobster fishery;
- (f) 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 a rock lobster fishery;
- (g) if a boat registered for use under the licence is the subject of, is registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take aquatic resources 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.

7—Registration

- (1) An application by the holder of a licence in respect of a rock lobster 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.
- (2) The Minister may only grant an application to register a boat for use under a licence in respect of a rock lobster fishery if satisfied that—
 - (a) no more than 1 other boat is registered for use under the licence; and
 - (b) the boat in respect of which the application is made is not already registered for use under a licence in respect of a rock lobster fishery.

8—Revocation of registration

- (1) The Minister may, on application by the holder of a licence in respect of a rock lobster 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 completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the documents specified in the application form.

8—Variation of regulation 11—Use of second registered boat

- (1) Regulation 11(1)—delete "by endorsement of" and substitute:
for use under
- (2) Regulation 11(1)—delete "fish pursuant to" and substitute:
aquatic resources under
- (3) Regulation 11(1), penalty provision—delete "\$4 000" and substitute:
\$5 000

9—Variation of regulation 11A—Restrictions on use of registered boat in Southern Zone

- (1) Regulation 11A—delete "fish" wherever occurring and substitute in each case:
aquatic resources
- (2) Regulation 11A—delete "pursuant to" wherever occurring and substitute in each case:
under
- (3) Regulation 11A(2)—delete "Director" and substitute:
Minister
- (4) Regulation 11A(5), penalty provision—delete "\$4 000" and substitute:
\$5 000

10—Variation of regulation 12—Obligation of registered master to notify Minister of use of bait nets

- (1) Regulation 12—delete "pursuant to" wherever occurring and substitute in each case:
under
- (2) Regulation 12—delete "Director" and substitute:
Minister

11—Revocation of regulations 13 and 14

Regulations 13 and 14—delete the regulations and substitute:

13—Restrictions on fishing activities by registered master during closed season in Northern Zone

The registered master of a registered boat used under a licence in respect of the Northern Zone Rock Lobster Fishery must not engage in fishing activities of a class that constitute the fishery during the period commencing at 1800 hours on 31 May in any year and ending at 1200 hours on the following 1 November if—

- (a) the registered master has already engaged in such fishing activities on 28 days during that period; or
- (b) the registered master is not the holder of the licence or, if the licence is held by a company, a director of the company that holds the licence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

12—Variation of regulation 15—Rock lobster pot entitlements

- (1) Regulation 15(1)—delete "Director" wherever occurring and substitute in each case:
Minister
- (2) Regulation 15(1)(f)(ii)(B)—delete subparagraph (B) and substitute:
 - (B) if any boat registered for use under that licence is the subject of, is registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement (other than a prescribed Victorian licence) to take aquatic resources granted under a law of the Commonwealth or a corresponding law—that other licence, permit, authority or entitlement is also surrendered;
- (3) Regulation 15(2)—delete subregulation (2) and substitute:
 - (2) An application to vary rock lobster pot 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—
 - (i) the documents specified in the application form; and
 - (ii) the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (4) Regulation 15(3)—delete "the purpose of trade or business" and substitute:
a commercial purpose

- (5) Regulation 15(3)—delete "endorsed on" and substitute:
under
- (6) Regulation 15(3), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (7) Regulation 15(4)—delete "the purpose of trade or business" and substitute:
a commercial purpose
- (8) Regulation 15(4)—delete "endorsed on" and substitute:
under
- (9) Regulation 15(4), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (10) Regulation 15(5)—delete "Director" and substitute:
Minister
- (11) Regulation 15(5)—delete "pursuant to" and substitute:
under
- (12) Regulation 15(6)—delete "Director" and substitute:
Minister

13—Variation of regulation 16—Individual rock lobster catch quota system—Northern Zone

- (1) Regulation 16(1), definitions of *prescribed period*, *relevant period* and *rock lobster quota*—delete the definitions and substitute:
quota period—a quota period for the fishery is a period of 12 months commencing on 1 July;
rock lobster quota entitlement or *quota entitlement*, in relation to a licence in respect of the fishery, means the maximum number of kilograms of rock lobster 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; and
 - (b) the unit value for the fishery and that quota period,subject to any variation applying during that quota period;
- (2) Regulation 16(1), definition of *unit value*—delete "Director" and substitute:
Minister
- (3) Regulation 16(2) to (5) (inclusive)—delete subregulations (2) to (5) and substitute:
 - (2) The Minister must determine the number of kilograms of rock lobster that is to be the value of a rock lobster unit for the fishery and each quota period.

- (3) The Minister may impose or vary conditions on licences in respect of the fishery fixing rock lobster quota entitlements as follows:
- (a) on the commencement of each quota period, each licence in respect of the fishery may be allocated a number of rock lobster units for that quota period equal to the number of rock lobster units allocated to that licence immediately before the commencement of that quota period;
 - (b) 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 and decrease the unit entitlement under the other licence by a corresponding number of units;
 - (c) if the total catch of rock lobster taken by the holder of a licence during a particular quota period exceeded the rock lobster quota entitlement under the licence for that quota period, the Minister may vary the conditions of the licence so as to reduce the quota entitlement—
 - (i) if the catch exceeded the quota entitlement by not more than 20 kilograms of rock lobster—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 20 kilograms but not more than 50 kilograms of rock lobster—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (d) 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 a rock lobster quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 50 kilograms of rock lobster in excess of the quota entitlement,the conditions of the licence may be varied so as to reduce the rock lobster quota entitlement for 3 quota periods following the conviction by 1 kilogram for each kilogram of rock lobster taken in excess of the quota entitlement for the quota period during which the offence was committed;
 - (e) a variation of a rock lobster quota entitlement under paragraph (c) must be expressed to apply only for the quota period during which the variation is made.
- (4) 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—
 - (i) the documents specified in the application form; and
 - (ii) the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (5) The holder of a licence in respect of the fishery must not, for a commercial purpose, engage in a fishing activity of a class that constitutes the fishery while the number of rock lobster units allocated to the licence is less than 320.
Maximum penalty: \$5 000.
Expiation fee: \$315.

14—Variation of regulation 17—Individual rock lobster catch quota system—Southern Zone

- (1) Regulation 17(1), definitions of *prescribed period* and *rock lobster quota*—delete the definitions and substitute:
 - quota period*—a quota period for the fishery is a period of 12 months commencing on 1 October;
 - rock lobster quota entitlement* or *quota entitlement*, in relation to a licence in respect of the fishery, means the maximum number of kilograms of rock lobster that may be lawfully taken by the holder of the licence during a quota period, being the product of—
 - (a) the unit entitlement under that licence; and
 - (b) the unit value for the fishery and that quota period,subject to any variation applying during that quota period;
- (2) Regulation 17(1), definition of *unit value*—delete "Director" and substitute:
Minister
- (3) Regulation 17(1), definition of *unit value*—delete "prescribed" and substitute:
quota
- (4) Regulation 17(2) to (4) (inclusive)—delete subregulations (2) to (4) and substitute:
 - (2) The Minister must determine the number of kilograms of rock lobster that is to be the value of a rock lobster unit for the fishery and each quota period.
 - (3) The Minister may vary conditions on licences in respect of the fishery fixing rock lobster 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 and decrease the unit entitlement under the other licence by a corresponding number of units;

- (b) if the total catch of rock lobster taken by the holder of a licence during a particular quota period exceeded the rock lobster quota entitlement under the licence for that quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement—
 - (i) if the catch exceeded the quota entitlement by not more than 20 kilograms of rock lobster—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 20 kilograms but not more than 50 kilograms of rock lobster—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 a rock lobster quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 50 kilograms of rock lobster in excess of the quota entitlement,

the conditions of the licence may be varied so as to reduce the rock lobster quota entitlement for 3 quota periods following the conviction by 1 kilogram for each kilogram of rock lobster taken in excess of the quota entitlement for the quota period during which the offence was committed;
 - (d) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (c)) must be expressed to apply only for the quota period during which the variation is made.
- (4) 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—
 - (i) the documents specified in the application form; and
 - (ii) the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.

15—Variation of regulation 18—Individual giant crab catch quota system

- (1) Regulation 18(1), definition of *giant crab quota*—delete the definition and substitute:

giant crab quota entitlement or *quota entitlement*—

 - (a) in relation to a licence in respect of a rock lobster fishery—means the maximum number of kilograms of giant crab that may be lawfully taken by the holder of the licence during a quota period, being the product of—
 - (i) the unit entitlement under the licence; and
 - (ii) the unit value for the fishery and that quota period, subject to any variation applying during that quota period;
 - (b) in relation to a licence in respect of the Miscellaneous Fishery—has the same meaning as in regulation 10 of the *Fisheries Management (Miscellaneous Fishery) Regulations 2000*;
- (2) Regulation 18(1), definition of *Miscellaneous Fishery*—delete "*Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations*" and substitute:

Fisheries Management (Miscellaneous Fishery) Regulations
- (3) Regulation 18(1), definition of *prescribed period*—delete the definition and substitute:

quota period—

 - (a) a quota period for the Northern Zone Rock Lobster Fishery is a period of 12 months commencing on 1 November;
 - (b) a quota period for the Southern Zone Rock Lobster Fishery is a period of 12 months commencing on 1 October;
- (4) Regulation 18(1), definition of *unit entitlement*—delete "regulation 11 of the *Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations 2000*" and substitute:

regulation 10 of the *Fisheries Management (Miscellaneous Fishery) Regulations 2000*
- (5) Regulation 18(1), definition of *unit value*—delete "Director" and substitute:

Minister
- (6) Regulation 18(1), definition of *unit value*—delete "licence" and substitute:

quota
- (7) Regulation 18(2) to (4) (inclusive)—delete subregulations (2) to (4) and substitute:
 - (2) The Minister must determine the number of kilograms of giant crab that is to be the value of a giant crab unit for a rock lobster fishery and each quota period.

- (3) The Minister may vary conditions on licences in respect of a rock lobster fishery or the Miscellaneous Fishery fixing giant crab quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences in respect of the same rock lobster fishery subject to a condition fixing a giant crab quota entitlement, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences and decrease the unit entitlement under the other licence by a corresponding number of units;
 - (b) on joint application made to the Minister by the holder of a licence in respect of the Northern Zone Rock Lobster Fishery subject to a condition fixing a giant crab quota entitlement (the *first licence*) and the holder of a licence in respect of the Miscellaneous Fishery subject to a condition fixing a giant crab quota entitlement in respect of the Northern Zone (the *second licence*)—
 - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence in respect of the Northern Zone by a corresponding number of units; or
 - (ii) the conditions of the first licence may be varied so as to increase the unit entitlement under that licence and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence in respect of the Northern Zone by a corresponding number of units;
 - (c) on joint application made to the Minister by the holder of a licence in respect of the Southern Zone Rock Lobster Fishery subject to a condition fixing a giant crab quota entitlement (the *first licence*) and the holder of a licence in respect of the Miscellaneous Fishery subject to a condition fixing a giant crab quota entitlement in respect of the Southern Zone (the *second licence*)—
 - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence in respect of the Southern Zone by a corresponding number of units; or

- (ii) the conditions of the first licence may be varied so as to increase the unit entitlement under that licence and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence in respect of the Southern Zone by a corresponding number of units;
 - (d) if the total catch of giant crab taken by the holder of a licence in respect of a rock lobster fishery during a quota period exceeded the giant crab quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to reduce the quota entitlement—
 - (i) if the catch exceeded the quota entitlement by not more than 20 kilograms of giant crab—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 20 kilograms but not more than 50 kilograms of giant crab—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (c) if—
 - (i) the holder of a licence in respect of a rock lobster fishery is convicted of an offence of contravening a condition of the licence fixing a giant crab quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 50 kilograms of giant crab in excess of the quota entitlement,the conditions of the licence may be varied so as to reduce the giant crab quota entitlement for 3 quota periods following the conviction by 1 kilogram for each kilogram of giant crab taken in excess of the quota entitlement for the quota period during which the offence was committed;
 - (e) a variation of a quota entitlement made under paragraph (d) must be expressed to apply only for the quota period during which the variation is made.
- (4) 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—
 - (i) the documents specified in the application form; and

- (ii) the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.

16—Variation of regulation 19—Rock lobster taken in Northern Zone to be landed whole within State

- (1) Regulation 19—delete "pursuant to" and substitute:
under
- (2) Regulation 19, penalty provision—delete "\$4 000" and substitute:
\$5 000

17—Variation of regulation 20—Disposal of rock lobster and giant crab

- (1) Regulation 20(1)—delete "pursuant to" and substitute:
under
- (2) Regulation 20(1), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (3) Regulation 20(2)(b)—delete "licence period" and substitute:
financial year

18—Variation of regulation 21—Catch and disposal records (rock lobster)—Northern Zone

- (1) Regulation 21—delete "pursuant to" wherever occurring and substitute in each case:
under
- (2) Regulation 21—delete "Director" wherever occurring and substitute in each case:
Minister
- (3) Regulation 21(3), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (4) Regulation 21(4), penalty provision—delete "\$4 000" and substitute:
\$5 000

19—Variation of regulation 22—Catch and disposal records (rock lobster)—Southern Zone

- (1) Regulation 22—delete "pursuant to" wherever occurring and substitute in each case:
under
- (2) Regulation 22—delete "Director" wherever occurring and substitute in each case:
Minister
- (3) Regulation 22(4), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (4) Regulation 22(5), definition of *fishing season*—delete "30 April" and substitute:
31 May

**20—Variation of regulation 23—Catch and disposal records (giant crab)—
Southern Zone**

- (1) Regulation 23—delete "pursuant to" wherever occurring and substitute in each case:
under
- (2) Regulation 23—delete "Director" wherever occurring and substitute in each case:
Minister
- (3) Regulation 23(1)—delete "endorsed with a condition fixing a giant crab quota on the licence" and substitute:
subject to a condition fixing a giant crab quota entitlement
- (4) Regulation 23(3)—delete "endorsed with a condition fixing a giant crab quota on the licence" and substitute:
subject to a condition fixing a giant crab quota entitlement
- (5) Regulation 23(4), penalty provision—delete "\$4 000" and substitute:
\$5 000

21—Variation of regulation 24—Periodic returns

- (1) Regulation 24(1)(b)—delete "Executive Director of SARDI, with the approval of the Minister," and substitute:
Minister
- (2) Regulation 24(1)(c)—delete "office of the Executive Director of SARDI" and substitute:
Minister
- (3) Regulation 24(1), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (4) Regulation 24(2)—delete "fish" wherever occurring and substitute in each case:
aquatic resources
- (5) Regulation 24(2)—delete "pursuant to" and substitute:
under
- (6) Regulation 24(4)(a)—delete "Executive Director of SARDI" and substitute:
Minister
- (7) Regulation 24(4), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$5 000.
Expiation fee: \$315.

22—Variation of regulation 25—Victorian licences

- (1) Regulation 25—delete "Director" wherever occurring and substitute in each case:
Minister

- (2) Regulation 25, penalty provision—delete "\$4 000" and substitute:
\$5 000

23—Substitution of regulation 26

Regulation 26—delete the regulation and substitute:

26—Sale of rock lobster during closed season

- (1) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must not sell live rock lobster during the period commencing at 1800 hours on 31 May in any year and ending at 1200 hours on the following 1 November.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (2) It is a defence to a charge of an offence against subregulation (1) if the defendant proves that he or she did not take the rock lobster to which the charge relates in the Northern Zone.
- (3) The holder of a licence in respect of the Southern Zone Rock Lobster Fishery must not sell live rock lobster during the period commencing at 1800 hours on 31 May in any year and ending at 0600 hours on the following 1 October.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) It is a defence to a charge of an offence against subregulation (3) if the defendant proves that he or she did not take the rock lobster to which the charge relates in the Southern Zone.

24—Substitution of Schedules 1 to 3

Schedules 1 to 3 (inclusive)—delete the Schedules and substitute:

Schedule 1—Aquatic resources prescribed for rock lobster fisheries

Annelids

Beachworm (Class Polychaeta)

Bloodworm (Class Polychaeta)

Tubeworm (Class Polychaeta)

Crustaceans

Giant Crab (*Pseudocarcinus gigas*)

Velvet Crab (*Nectocarcinus tuberculosus*)

Molluscs

Southern Calamari (*Sepioteuthis australis*)

Cockle (*Anadara* & *Katylisia* spp)

Cuttlefish (*Sepia* spp)

Mussel (*Mytilus* spp)

Octopus (*Octopus* spp)

Oyster (Family Ostreidae)

Scallop (Family Pectinidae)

Gould's Squid (*Notodarus gouldii*)

Scalefish

Australian Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Black Bream (*Acanthopagrus butcheri*)

Cod (marine species) (Family Moridae)

Dory (Family Zeidae)

Flathead (Family Platycephalidae)

Flounder (Family Bothidae or Pleuronectidae)

Southern Garfish (*Hyporhamphus melanochir*)

Bluespotted Goatfish (*Upeneichthys vlamingii*)

Australian Herring (*Arripis georgianus*)

Leatherjacket (Family Monacanthidae)

Pink Ling (*Genypterus blacodes*)

Blue Mackerel (*Scomber australasicus*)

Common Jack Mackerel (*Trachurus declivis*)

Morwong (Family Cheilodactylidae)

Mullet of all species (Family Mugilidae)

Mulloway (*Argyrosomus hololepidotus*)

Redfish (*Centroberyx affinis*)

Bight Redfish (*Centroberyx gerrardi*)

West Australian Salmon (*Arripis truttaceus*)

Australian Sardine (*Sardinops sagax*)

Snapper (*Pagrus auratus*)

Snook (*Sphyræna novaehollandiae*)

Southern Sole (*Aseraggodes haackeanus*)

Sea Sweep (*Scorpiæ aequipinnis*)

Swallowtail (*Centroberyx lineatus*)

Blue-eye Trevalla (*Hyperoglyphe antarctica*)

Trevally (*Caranginae* spp)

Whiting (Family Sillaginidae)

Bluethroat Wrasse (*Notolabrus tetricus*)

Sharks

Rays of all species (Class Elasmobranchii)

Shark of all species (Class Elasmobranchii) other than White Shark (*Carcharodon carcharias*)

Skate of all species (Class Elasmobranchii)

Schedule 2—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 Northern Zone Rock Lobster 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 Rock Lobster Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

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 29 November 2007

No 286 of 2007

MAFF07/020CS