

South Australia

## **Fisheries Management (Marine Scalefish Fisheries) Regulations 2017**

under the *Fisheries Management Act 2007*

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Schedule 1—Aquatic resources prescribed for marine scalefish fisheries

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## Schedule 2—Revocation of *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006* and transitional provision

- 1 Revocation of *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*
  - 2 Eligibility to be granted fishery licence
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### 1—Short title

These regulations may be cited as the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017*.

### 2—Commencement

These regulations will come into operation on 15 January 2018.

### 3—Interpretation

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

*Act* means the *Fisheries Management Act 2007*;

*blue crab* means Blue Swimmer Crab (*Portunus armatus*);

*Blue Crab Fishery* has the same meaning as in the *Fisheries Management (Blue Crab Fishery) Regulations 2013*;

*blue crab fishing zone* has the same meaning as in the *Fisheries Management (Blue Crab Fishery) Regulations 2013*;

*cockle* means any mollusc of—

- (a) the order Veneroida (other than Pipi (*Donax* spp) or Vongole (*Katelysia* spp)); or
- (b) the genus *Anadara*;

*cockle rake* has the same meaning as in the *Fisheries Management (General) Regulations 2017*;

*Coffin Bay vongole fishing zone* means the waters of or near Coffin Bay contained within and bounded by a line commencing at the line of Mean High Water Springs closest to 34°30'36.68" South, 135°22'46.38" East (generally south-west of Farm Beach), then beginning southwesterly following the line of Mean High Water Springs to the location closest to 34°27'20.32" South, 135°13'00.83" East (Point Burgess), then south-easterly to the point of commencement, but excluding any land or waters so encompassed that lie landward of the line of Mean High Water Springs;

*crab net* has the same meaning as in the *Fisheries Management (General) Regulations 2017*;

*Department* means the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the Act;

*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

*Gulf St. Vincent Blue Crab Fishing Zone* has the same meaning as in the *Fisheries Management (Blue Crab Fishery) Regulations 2013*;

**Lakes and Coorong** has the same meaning as in the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;

**Lakes and Coorong Fishery** means the fishery of that name constituted by the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;

**marine scalefish fishery** means—

- (a) the Marine Scalefish Fishery; or
- (b) the Restricted Marine Scalefish Fishery,

constituted by these regulations;

**MSSF licence** means a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a sardine quota entitlement;

**Northern Zone Rock Lobster Fishery** means the fishery of that name constituted by the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

**ocean jacket trap** means a fish trap (within the meaning of the *Fisheries Management (General) Regulations 2017*) which may, under those regulations, be lawfully used to take Ocean Jacket (*Nelusetta ayraudi*);

**pipi** means Pipi (*Donax* spp);

**pipi quota entitlement**—see regulation 15;

**Port River vongole fishing zone** means the waters of or near Port Gawler contained within and bounded by a line commencing at the line of Mean High Water Springs closest to 34°40'12.26" South, 138°26'35.25" East (end of Port Gawler road), then beginning easterly following the line of Mean High Water Springs to the location closest to 34°46'59.03" South, 138°28'40.48" East, then north-westerly to the point of commencement, but excluding any land or waters so encompassed that lie landward of the line of Mean High Water Springs;

**sand crab pot** has the same meaning as in the *Fisheries Management (General) Regulations 2017*;

**sardine** means Australian Sardine (*Sardinops sagax*);

**sardine net** has the same meaning as in the *Fisheries Management (General) Regulations 2017*;

**sardine quota entitlement**—see regulation 17;

**Spencer Gulf Blue Crab Fishing Zone** has the same meaning as in the *Fisheries Management (Blue Crab Fishery) Regulations 2013*;

**spouse**—a person is the spouse of another if they are legally married;

**vongole** means any mollusc of the genus *Katelysia*;

**vongole fishing zone** means—

- (a) the Coffin Bay vongole fishing zone; or
- (b) the Port River vongole fishing zone; or
- (c) the West Coast vongole fishing zone;

**vongole quota entitlement**—see regulation 14;

*West Coast vongole fishing zone* means—

- (a) the waters of or near Smoky Bay contained within and bounded by a line commencing at the line of Mean High Water Springs closest to 32°15'48.62" South, 133°46'09.70" East (Cape D'Estrees), then beginning easterly following the line of Mean High Water Springs to the location closest to 32°23'54.35" South, 133°52'00.15" East (Cape Missiessy), then westerly to the line of Mean High Water Springs closest to 32°23'55.74" South, 133°43'09.43" East (Goalen Rocks), then north-easterly to the point of commencement, but excluding any land or waters so encompassed that lie landward of the line of Mean High Water Springs; and
  - (b) the waters of or near Streaky Bay contained within and bounded by a line commencing at the line of Mean High Water Springs closest to 32°39'22.17" South, 134°17'13.59" East (most northern point of Perlubie beach), then beginning north-easterly following the line of Mean High Water Springs to the location closest to 32°42'37.66" South, 134°05'08.97" East, then north-easterly to the point of commencement, but excluding any land or waters so encompassed that lie landward of the line of Mean High Water Springs; and
  - (c) the waters of or near Venus Bay contained within and bounded by a line commencing at the line of Mean High Water Springs closest to 33°10'19.37" South, 134°41'04.36" East (Port Kenny jetty), then beginning easterly following the line of Mean High Water Springs to the location closest to 33°13'48.68" South, 134°39'38.86" East (South Head), then northerly to the line of Mean High Water Springs closest to 33°13'31.48" South, 134°39'41.81" East (North Head), then beginning north-easterly following the line of Mean High Water Springs to the location closest to 33°10'51.24" South, 134°38'14.69" East, then north-easterly to the point of commencement, but excluding any land or waters so encompassed that lie landward of the line of Mean High Water Springs.
- (2) In these regulations—
- (a) 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 coordinates are expressed in terms of GDA94;
  - (b) common and scientific fish names are given according to AS 5300—2015 *Australian Fish Names Standard* published by Standards Australia, as in force from time to time;
  - (c) a reference to the *taking of aquatic resources* includes a reference to an act preparatory to, or involved in, the taking of the aquatic resources.

#### **4—Constitution of fisheries**

- (1) The following fisheries are constituted:
  - (a) the Marine Scalefish Fishery;
  - (b) the Restricted Marine Scalefish Fishery.

- (2) The Marine Scalefish Fishery and the Restricted Marine Scalefish Fishery each consist of—
  - (a) the taking of aquatic resources specified in Schedule 1 in coastal waters; and
  - (b) the taking of Razorfish (*Pinna bicolor*) in coastal waters for the purpose of bait.
- (3) The holder of a licence in respect of a marine scalefish fishery must not, for a commercial purpose, take blue crab in a blue crab fishing zone unless the licence is subject to a condition fixing a blue crab quota entitlement in relation to that zone.  
Maximum penalty: \$5 000.

### **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 Marine Scalefish 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 Restricted Marine Scalefish Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

### **6—Transfer of licences**

- (1) In this regulation—

*authorised amalgamation scheme transfer* means a transfer of a licence that is authorised under regulation 8;

*authorised family transfer* means a transfer of a licence that is authorised under regulation 7.
- (2) Subject to these regulations, licences in respect of a marine scalefish fishery are transferable.
- (3) A licence in respect of the Restricted Marine Scalefish Fishery cannot be transferred to the holder of another licence in respect of that fishery.
- (4) 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 35 completed by the holder of the licence up to the date of application.
- (5) The Minister may only consent to the transfer of a licence if satisfied as to the following:
  - (a) that the transfer—
    - (i) is an authorised family transfer; or
    - (ii) is an authorised amalgamation scheme transfer; or
    - (iii) occurs in the course of the administration of a deceased estate under section 57(6) of the Act; or
    - (iv) occurs as a result of the holder of the licence suffering from total and permanent incapacity; or

- (v) occurs as a result of a disqualification under Part 8 Division 4 of the Act;
- (b) that an application for consent to the transfer (other than a transfer referred to in paragraph (a)) has not previously been made within a period of 5 years of the date of this application;
- (c) that any fees or other amounts payable in relation to the licence under the Act have been paid in full;
- (d) that the licence to be transferred has not been suspended;
- (e) that the transfer is to 1 person only;
- (f) that no proceedings alleging an offence against the Act are pending or likely to be commenced in the State against the holder of the licence;
- (g) that the transferee is a natural person of at least 15 years of age and is a fit and proper person to hold a licence in respect of a marine scalefish fishery.

### 7—Transfer of licences between family members

Subject to regulation 6, a licence in respect of the Marine Scalefish Fishery may be transferred if the transferee is—

- (a) the spouse or domestic partner of the licensee; or
- (b) a parent or grandparent of the licensee; or
- (c) a brother or sister, or half-brother or half-sister, of the licensee; or
- (d) a child or grandchild of the licensee; or
- (e) a child or grandchild of the spouse or domestic partner of the licensee.

### 8—Transfer of licences under amalgamation scheme

- (1) In this regulation—

***aggregate fishing points value***, in relation to 2 or more licences, means the sum of the fishing points values endorsed on the licences under this regulation;

***aggregate gear entitlement***, in relation to 2 or more licences, means the aggregate of the gear entitlements under the licences;

***licence*** means a licence in respect of a marine scalefish fishery;

***line licence*** means a licence other than a net licence;

***net*** means a fish net as defined in the *Fisheries Management (General) Regulations 2017* but does not include a bait net as defined in those regulations;

***net licence*** means a licence under which there is a gear entitlement that authorises the use of 1 or more nets (whether or not the entitlement authorises the use of other devices).

- (2) For the purposes of this regulation, the fishing points value in respect of each net licence or line licence is the fishing points value endorsed on each licence immediately before the commencement of this regulation.
- (3) The fishing points value endorsed on a licence may be varied only—
  - (a) to reflect a change of the licence from a net licence to a line licence; or

- (b) as otherwise required under this regulation; or
  - (c) in order to correct an error.
- (4) Subject to regulation 6, a licence may then be transferred as authorised under the following provisions:
- (a) a net licence in respect of the Marine Scalefish Fishery may be transferred to the holder of another net licence in respect of that fishery;
  - (b) a line licence in respect of the Marine Scalefish Fishery may be transferred to the holder of another line licence in respect of that fishery;
  - (c) 1 or 2 licences in respect of the Restricted Marine Scalefish Fishery may be transferred to the holder of a licence in respect of the Marine Scalefish Fishery;
  - (d) if a transfer of a kind referred to in a preceding paragraph has effect, the transferee must surrender to the Minister 1 of the 2 licences, or 2 of the 3 licences (as the case may be) then held by the transferee;
  - (e) if 1 or more of the licences held by the transferee has recorded on it demerit points incurred under Part 8 Division 4 of the Act in respect of offences committed within the preceding period of 5 years, the licence or licences surrendered must be—
    - (i) the licence or licences without any such demerit points, or (as the case may require) the licence or licences with the greater number of such demerit points, recorded on the licence or licences; or
    - (ii) if the same number of such demerit points is recorded on each licence—the licence or licences with demerit points recorded on it in respect of the most recently committed offence;
  - (f) if 1 or more licences are to be surrendered but any fees or other amounts payable under the Act in respect of those licences have not been paid in full, the fees or amounts still owing must be paid on or before the surrender of those licences;
  - (g) on the surrender of a licence and payment of any amount required to be paid under paragraph (f) in respect of the licence, the Minister must—
    - (i) replace the gear endorsement of the remaining licence held by the transferee with a gear endorsement that makes provision for the aggregate gear entitlement in relation to that licence and the surrendered licence or licences; and
    - (ii) vary the fishing points value endorsed on the remaining licence under this regulation so that it equals the aggregate fishing points value in relation to that licence and the surrendered licence or licences;
  - (h) when, as a result of the process referred to in paragraphs (a) to (g), the fishing points value endorsed on a licence under this regulation equals or exceeds 24, the licence may be transferred without complying with those paragraphs;
  - (i) the gear entitlement under the remaining licence held by the transferee is replaced with a gear entitlement that makes provision for the aggregate gear entitlement under that licence and the surrendered licence or licences.

## 9—Registration

- (1) An application by the holder of a licence in respect of a marine scalefish 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) A person other than the holder of a licence in respect of a marine scalefish fishery (the *licensee*) cannot be registered as the master of a boat used under the licence unless—
  - (a) the licensee is already registered as the master of a boat used under another licence in respect of a marine scalefish fishery held by the licensee; or
  - (b) the licence is subject to a condition fixing a pipi quota entitlement; or
  - (c) the licence is subject to a condition fixing a vongole quota entitlement; or
  - (d) the gear entitlement under the licence authorises the use of 1 or more of any of the following devices:
    - (i) an ocean jacket trap;
    - (ii) a sand crab pot;
    - (iii) a sardine net.
- (3) If the gear entitlement under a licence in respect of a marine scalefish fishery authorises the use of an ocean jacket trap, a person cannot be registered as the master of a boat used under the licence if the holder of the licence and 2 other persons are already registered as masters of that boat.

## 10—Revocation of registration

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

## 11—Restriction on fishing activities in which registered masters other than licence holder may be engaged

If a person holds only 1 licence in respect of a marine scalefish fishery, a registered master other than the holder of the licence must not engage in fishing activities under the licence other than—

- (a) in the case of a licence subject to a condition fixing a pipi quota entitlement—the taking of pipi under the licence; or
- (b) in the case of a licence subject to a condition fixing a vongole quota entitlement—the taking of vongole under the licence; or



- (c) in the case of a licence that authorises the use of ocean jacket traps, sand crab pots or sardine nets—fishing activities involving the use of those devices.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 12—Registered master may be assisted by only 1 agent

The registered master of a registered boat must not, when using the boat under a licence in respect of the Restricted Marine Scalefish Fishery, cause or permit more than 1 other person to assist the master in a fishing activity of a class that constitutes the fishery.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 13—Carriage of crab nets on boats

The Minister may impose conditions on licences in respect of a marine scalefish fishery limiting the number of crab nets that may be carried on boats and otherwise regulating the carrying of crab nets used for fishing activities engaged in under the licences.

## 14—Individual vongole catch quota system

- (1) In this regulation—

**vongole quota entitlement** or **quota entitlement**, in relation to a licence in respect of a marine scalefish fishery or an eligible rock lobster fishery licence and a vongole fishing zone, means the maximum number of kilograms of vongole that may be lawfully taken by the holder of the licence in that zone during a quota period, being the product of—

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

subject to any variation applying during that quota period;

**eligible rock lobster fishery licence** means a licence in respect of the Northern Zone Rock Lobster Fishery under which the holder may lawfully take aquatic resources specified in Schedule 1 of the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

**relevant regulations** means the *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991*, the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006* or these regulations (as the case requires);

**quota period**—a quota period is a period of 12 months commencing on 1 July;

**unit entitlement** means the number of vongole units for the time being allocated to a licence;

**unit value** means the number of kilograms of vongole determined by the Minister to be the value of a vongole unit for a vongole fishing zone and a quota period.

- (2) The Minister must determine the number of kilograms of vongole that is to be the value of a vongole unit for a vongole fishing zone and a quota period.

- (3) The Minister may impose or vary conditions on licences in respect of a marine scalefish fishery or eligible rock lobster fishery licences fixing vongole quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement in respect of the same vongole fishing zone—the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that zone and decrease the unit entitlement under the other licence in respect of that zone by a corresponding number of units;
  - (b) on joint application made to the Minister by the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement in respect of a particular vongole fishing zone and the holder of an eligible rock lobster fishery licence subject to a condition fixing a vongole quota entitlement in respect of that zone—the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that zone and decrease the unit entitlement under the other licence in respect of that zone by a corresponding number of units;
  - (c) on joint application made to the Minister by the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement in respect of a particular vongole fishing zone (the *first licence*) and the holder of a licence in respect of a marine scalefish fishery not subject to a condition fixing a vongole quota entitlement in respect of that zone (the *second licence*)—
    - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone; and
    - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a vongole quota entitlement in respect of that zone may be imposed on that licence;
  - (d) on joint application made to the Minister by the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement in respect of a particular vongole fishing zone (the *first licence*) and the holder of an eligible rock lobster fishery licence not subject to a condition fixing a vongole quota entitlement in respect of that zone (the *second licence*)—
    - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone; and
    - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a vongole quota entitlement in respect of that zone may be imposed on that licence;
  - (e) if the total catch of vongole taken during a quota period by the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement exceeded the vongole quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the vongole quota entitlement—

- (i) if the catch exceeded the quota entitlement by not more than 50 kilograms—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 250 kilograms—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
  - (f) if—
    - (i) the holder of a licence in respect of a marine scalefish fishery is convicted of an offence of contravening a condition of the licence fixing a vongole quota entitlement; and
    - (ii) the conduct constituting the offence involved the taking of more than 250 kilograms of vongole in excess of the vongole quota entitlement,the conditions of the licence may be varied so as to decrease the vongole quota entitlement under the licence 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;
  - (g) if—
    - (i) the holder of a licence in respect of a marine scalefish fishery licence subject to a condition fixing a vongole quota entitlement has assisted in the carrying out of research work under the 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 conditions of the licence may be varied so as to increase the vongole quota entitlement under the licence.
- (4) If a variation of a unit entitlement is to have effect only for the balance of the quota period during which the variation is made, the variation must be expressed to have such effect.
- (5) An application to vary unit entitlements must—
  - (a) be made in a manner and form approved by the Minister; and
  - (b) be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the prescribed fee.
- (6) If a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement is transferred to the holder of another such licence and 1 of those licences is surrendered, the conditions of the remaining licence may be varied so as to increase the unit entitlement under that licence by the number of vongole units allocated to the surrendered licence immediately before its surrender.
- (7) Subject to subregulation (8), the holder of a licence in respect of a marine scalefish fishery must not take vongole for a commercial purpose in a vongole fishing zone unless the licence is subject to a condition fixing a vongole quota entitlement in respect of that zone.

Maximum penalty: \$5 000.

- (8) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement in respect of a vongole fishing zone may take vongole in another vongole fishing zone if—
- (a) the holder of the licence is unable to lawfully take vongole in the vongole fishing zone to which the condition relates because—
    - (i) as a result of a variation in the conditions of the licence under subregulation (3), the number of vongole units allocated to the licence for the time being is zero; or
    - (ii) the total number of kilograms of vongole taken under the licence in that zone equals the quota entitlement under the licence in respect of that zone; and
  - (b) the vongole are taken solely for the purpose of bait to be used to take aquatic resources under the licence; and
  - (c) the number of vongole taken for that purpose on any 1 day does not exceed the number fixed by condition of the licence as the maximum number of vongole that may be taken in any 1 day for that purpose.

## 15—Individual pipi catch quota system

- (1) In this regulation—

***pipi quota entitlement*** or ***quota entitlement***, in relation to a licence in respect of the Marine Scalefish Fishery or the Lakes and Coorong Fishery subject to a condition fixing a pipi quota entitlement, means the maximum number of kilograms of pipi 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 that quota period,

subject to any variation applying during that quota period;

***quota period***—a quota period for the Marine Scalefish Fishery for the taking of pipi is a period of 12 months commencing on 1 July;

***unit entitlement*** under a licence means the number of pipi units allocated to the licence for the time being;

***unit value*** means the number of kilograms of pipi determined by the Minister to be the value of a pipi unit for a quota period.

- (2) The Minister must determine the number of kilograms of pipi that is to be the value of a pipi unit for each quota period.
- (3) The Minister may impose or vary conditions on licences in respect of the Marine Scalefish Fishery fixing pipi quota entitlements as follows:
  - (a) on joint application made to the Minister by the holders of any 2 licences in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi 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 Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement (the *first licence*) and the holder of a licence in respect of the Lakes and Coorong Fishery subject to such a condition (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 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 by a corresponding number of units;
- (c) if the total catch of pipi taken by the holder of a licence in respect of the Marine Scalefish Fishery during a quota period exceeded the pipi quota entitlement under the licence for that quota period—the conditions of the licence may be varied so as to decrease the pipi quota entitlement—
  - (i) if the catch exceeded the quota entitlement by not more than 500 kg—by 1 kg for each kilogram taken in excess of the quota entitlement; or
  - (ii) if the catch exceeded the quota entitlement by more than 500 kg but not more than 2 000 kg—by 2 kg for each kilogram taken in excess of the quota entitlement;
- (d) if—
  - (i) the holder of a licence in respect of the Marine Scalefish Fishery is convicted of an offence of contravening a condition of the licence fixing a pipi quota entitlement; and
  - (ii) the conduct constituting the offence involved the taking of more than 2 000 kg of pipi in excess of the quota entitlement,the conditions of the licence may be varied so as to decrease the pipi quota entitlement under the licence for 3 quota periods following the conviction by 1 kg for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed.
- (4) If a variation of a unit entitlement is to have effect only for the balance of the quota period during which the variation is made, the variation must be expressed to have such effect.
- (5) An application to vary unit entitlements must—
  - (a) be made in a manner and form approved by the Minister; and
  - (b) be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the prescribed fee.

## 16—Individual blue crab catch quota system

- (1) In this regulation—

**blue crab quota entitlement** or **quota entitlement**, in relation to a licence in respect of a marine scalefish fishery or the Blue Crab Fishery and a blue crab fishing zone, means the maximum number of kilograms of blue crab that may lawfully be taken by the holder of the licence in that zone during a quota period, being the product of—

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

subject to any variation applying during that quota period;

**quota period**—a quota period for a marine scalefish fishery or the Blue Crab Fishery is a period of 12 months commencing on 1 July;

**unit entitlement**, in relation to a licence in respect of a marine scalefish fishery or the Blue Crab Fishery and a blue crab fishing zone, means the number of blue crab units for the time being allocated to the licence in respect of that zone;

**unit value** means the number of kilograms of blue crab determined by the Minister to be the value of a blue crab unit for a blue crab fishing zone and a quota period.

- (2) The Minister must, on or before the commencement of each quota period, determine the number of kilograms of blue crab that is to be the value of a blue crab unit for a blue crab fishing zone and the quota period.
- (3) The Minister may impose or vary conditions on licences in respect of a marine scalefish fishery or the Blue Crab Fishery fixing blue crab quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences in respect of a marine scalefish fishery subject to conditions fixing blue crab quota entitlements in relation to the same blue crab fishing zone—the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that zone and decrease the unit entitlement under the other licence in respect of that zone by a corresponding number of units;
  - (b) on joint application made to the Minister by the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a blue crab quota entitlement in relation to a particular blue crab fishing zone (the **first licence**) and the holder of another licence in respect of a marine scalefish fishery, being a licence not subject to a condition fixing a blue crab quota entitlement (whether at all or in relation to that zone) (the **second licence**)—
    - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone; and
    - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a blue crab quota entitlement in respect of that zone may be imposed on that licence;

- (c) on joint application made to the Minister by the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a blue crab quota entitlement in relation to a particular blue crab fishing zone (the *first licence*) and the holder of a licence in respect of the Blue Crab Fishery subject to a condition fixing a blue crab quota entitlement in respect of the same zone (the *second licence*)—
  - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence in respect of that 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 in respect of that zone and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone by a corresponding number of units;
- (d) on joint application made to the Minister by the holder of a licence in respect of the Blue Crab Fishery subject to a condition fixing a blue crab quota in respect of a particular blue crab fishing zone (the *first licence*) and the holder of a licence in respect of a marine scalefish fishery not subject to a condition fixing a blue crab quota entitlement (whether at all or in relation to the same zone) (the *second licence*)—
  - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone; and
  - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a blue crab quota entitlement in respect of that zone may be imposed on that licence;
- (e) if the total blue crab catch taken under a licence in respect of a marine scalefish fishery during a quota period exceeded the blue crab quota entitlement under the licence for that quota period—the conditions of the licence may be varied so as to decrease the blue crab quota entitlement—
  - (i) if the catch exceeded the blue crab quota entitlement by not more than 20 kilograms of blue crab—by 1 kilogram for each kilogram taken in excess of the blue crab quota entitlement; or
  - (ii) if the catch exceeded the blue crab quota entitlement by more than 20 kilograms but not more than 50 kilograms of blue crab—by 2 kilograms for each kilogram taken in excess of the blue crab quota entitlement;
- (f) if—
  - (i) the holder of a licence in respect of a marine scalefish fishery is convicted of an offence of contravening a condition of the licence fixing a blue crab quota entitlement; and
  - (ii) the conduct constituting the offence involved the taking of more than 50 kilograms of blue crab in excess of the quota entitlement,

the conditions of the licence may be varied so as to decrease the blue crab quota entitlement under the licence 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;

- (g) a variation of a quota entitlement made under paragraph (e) 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 completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the prescribed fee.
- (5) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a blue crab quota entitlement must not, while the unit entitlement under the licence is less than—
- (a) in the case of a licence referred to in Schedule 4 of the *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991* as in force on 31 August 2006—19 blue crab units; or
  - (b) in any other case—80 blue crab units,

take blue crab under the licence except in the waters of the State west of longitude 135°E.

Maximum penalty: \$5 000.

## 17—Individual sardine catch quota system

- (1) This regulation applies only in relation to licences in respect of the Marine Scalefish Fishery under which sardine nets are registered.
- (2) In this regulation—

**Gulfs Zone** means the waters adjacent to South Australia that are east of the meridian of longitude 135°37'30"E (extending south from near Cape Carnot, Eyre Peninsula) and north of latitude 35°52'00"S (extending to Kangaroo Island, in the vicinity of Vennachar Point) and north of a line between Penneshaw, Kangaroo Island, and Cape Jervis, Fleurieu Peninsula, enclosing the waters of Gulf St. Vincent and Spencer Gulf;

**Outside Zone** means the waters adjacent to South Australia that are not within the Gulfs Zone;

**quota period**—a quota period for the Marine Scalefish Fishery is a period of 12 months commencing on 1 January;

**sardine fishing zone** means—

- (a) the Gulfs Zone; or
- (b) the Outside Zone;



**sardine quota entitlement** or **quota entitlement**, in relation to a licence in respect of the Marine Scalefish Fishery and a sardine fishing zone, means the maximum number of kilograms of sardines that may lawfully be taken by the holder of the licence in that zone during a quota period, being the product of—

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

subject to any variation applying during that quota period;

**unit entitlement** in relation to a licence in respect of the Marine Scalefish Fishery and a sardine fishing zone, means the number of sardine units for the time being allocated to the licence in respect of that zone;

**unit value** means the number of kilograms of sardines determined by the Minister to be the value of a sardine unit for a sardine fishing zone and a quota period.

- (3) The Minister must, on or before the commencement of each quota period, determine the number of kilograms of sardines that is to be the value of a sardine unit for a sardine fishing zone and the quota period.
- (4) The Minister may impose or vary conditions on licences in respect of the Marine Scalefish Fishery fixing sardine quota entitlements as follows:
  - (a) licences in respect of the fishery may be allocated an equal number of sardine units in respect of the same sardine fishing zone;
  - (b) the Minister may, not more than twice during a quota period, vary the conditions of all licences in respect of the fishery so as to increase the sardine quota entitlements under the licences by the same number of sardine units in respect of the same sardine fishing zone;
  - (c) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery—the conditions of those licences may be varied so as to increase (by whole units or part units) the unit entitlement under 1 of the licences in respect of a particular sardine fishing zone and decrease the unit entitlement under the other licence in respect of that zone by a corresponding number of units;
  - (d) if the total catch of sardines taken by the holder of a licence in respect of the fishery during a quota period exceeded the sardine quota entitlement under the licence for that quota period—the conditions of the licence may be varied so as to decrease the sardine quota entitlement—
    - (i) if the catch exceeded the sardine quota entitlement by not more than 15 tonnes of sardines—by 1 kilogram for each kilogram taken in excess of the sardine quota entitlement; or
    - (ii) if the catch exceeded the sardine quota entitlement by more than 15 tonnes but not more than 30 tonnes of sardines—by 2 kilograms for each kilogram taken in excess of the sardine 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 a sardine quota entitlement; and

- (ii) the conduct constituting the offence involved the taking of more than 30 tonnes of sardines in excess of the quota entitlement,

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

- (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (e)) must be expressed to apply only for the remainder of the quota period during which the variation is made.
- (5) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and
  - (b) be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the prescribed fee.
- (6) The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a sardine quota entitlement must not take sardines under the licence while the total number of sardine units allocated to the licence is less than 100 units.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.

## **18—Restrictions on taking vongole, pipi, cockles, blue crab and sardines**

- (1) The holder of a licence in respect of a marine scalefish fishery that is not subject to a condition fixing a vongole quota entitlement must not take vongole under the licence unless—
- (a) the vongole are taken solely for the purpose of bait to be used to take aquatic resources under the licence; and
  - (b) the number of vongole taken for that purpose on any 1 day does not exceed the number fixed by condition of the licence as the maximum number of vongole that may be taken in any 1 day for that purpose.
- Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (2) The holder of a licence in respect of a marine scalefish fishery must not take pipi for a commercial purpose unless the licence is subject to a condition fixing a pipi quota entitlement.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.
- (3) The holder of a licence in respect of a marine scalefish fishery (other than a licence subject to a condition fixing a pipi quota entitlement) must not take pipi under the licence except for the purpose of bait to be used to take aquatic resources under the licence.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.

- (4) The holder of a licence in respect of a marine scalefish fishery must not, on any 1 day, take a number of cockles under the licence exceeding the number fixed by condition of the licence as the maximum number of cockles that may be taken in any 1 day.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The holder of a licence in respect of a marine scalefish fishery must not take blue crab in a blue crab fishing zone for a commercial purpose unless the licence is subject to a condition fixing a blue crab quota entitlement in relation to that zone.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (6) The holder of a licence in respect of a marine scalefish fishery must not take sardines for a commercial purpose unless the licence is subject to a condition fixing a sardine quota entitlement.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **19—Restriction on use of cockle rakes**

The holder of a licence in respect of a marine scalefish fishery must not use, or cause, suffer or permit the use of, more than 6 cockle rakes at any 1 time for the purpose of taking pipi under the licence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **20—Pipi to be landed within State**

The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement must ensure that all pipi taken under the licence are landed within the State.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **21—Restriction on use of sand crab pots**

The holder of a licence in respect of the Marine Scalefish Fishery must not take aquatic resources (other than sand crabs) in the waters of the Fishery using a sand crab pot.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **22—Restriction on carriage of devices on registered boat**

- (1) If sand crab pots are carried on a registered boat used under a licence in respect of the Marine Scalefish Fishery, registered devices of any other kind must not be carried on the boat at the same time.

- (2) If subregulation (1) is contravened, the registered owner and the registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **23—Restriction on use of certain registered boats to take sardines**

- (1) A registered boat registered for use under more than 1 MSSF licence must not be used to take sardines under more than 1 such licence at any 1 time.

- (2) If subregulation (1) is contravened, the registered owner and the registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **24—Information to be provided—taking vongole**

- (1) If fishing activities involving the taking of vongole under a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement are, or are to be, engaged in, the Department must be notified, in the manner and form, and at such times, as determined by the Minister, of the information specified by the Minister in the determination.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

### **25—Information to be provided—taking pipi**

- (1) If fishing activities involving the taking of pipi under a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement are, or are to be, engaged in, the Department must be notified in the manner and form, and at such times, as determined by the Minister, of the information specified by the Minister in the determination.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

### **26—Information to be provided when certain registered boats used to take sardines**

- (1) If a registered boat is, or is to be, used under more than 1 MSSF licence to take sardines under the licence, the Department must be notified, in the manner and form, and at such times, as determined by the Minister, of the information specified by the Minister in the determination.

- (2) If the determination of the Minister made for the purposes of subregulation (1) is not complied with, the registered owner and registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

## **27—Use of agents in fishing activities—licences under which boats are registered**

- (1) This regulation applies only in relation to licences under which 1 or more registered boats are used to take aquatic resources.
- (2) The holder of a licence in respect of a marine scalefish fishery, or the registered master of a registered boat used under 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.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The holder of a licence in respect of the Marine Scalefish Fishery, or the registered master of a registered boat used under 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 (other than the taking of pipi under a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement in the Lakes and Coorong).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement, or the registered master of a registered boat used under such a licence, must not cause or permit more than 8 persons to be engaged at the same time on the shore as agents of the holder of the licence in the taking of pipi under the licence in the Lakes and Coorong.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The Minister may impose conditions on a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement limiting the fishing activities that may be engaged in by agents of the holder of the licence in connection with the taking of pipi under the licence in the Lakes and Coorong.

- (6) The holder of a licence in respect of the Restricted Marine Scalefish Fishery or the registered master of a registered boat used under 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.

Maximum penalty: \$5 000.

Expiation fee: \$315.

**28—Use of agents in fishing activities—licences under which no registered boats are used**

- (1) This regulation applies only in relation to licences under which there are no registered boats.
- (2) The holder of a licence in respect of the Marine Scalefish Fishery that is subject to a condition fixing a relevant quota entitlement must not cause or permit a person to be engaged on the shore as an agent of the holder of the licence in a relevant fishing activity unless—
- (a) the holder of the licence or a nominated agent 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 nominated agent (as the case may be) and the other person remain, while so engaged, within 700 metres of each other.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The holder of a licence in respect of the Marine Scalefish Fishery 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 other than the taking of pipi under the licence in the Lakes and Coorong.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement must not cause or permit more than 8 persons (not including a nominated agent) to be engaged at the same time on the shore as agents of the holder of the licence in the taking of pipi under the licence in the Lakes and Coorong.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The Minister may impose conditions on a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement limiting the fishing activities that may be engaged in by agents of the holder of the licence in connection with a relevant fishing activity.
- (6) The Minister may, on application by the holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement, approve a person as a nominated agent for the purposes of this regulation.
- (7) An approval under subregulation (6) may be made subject to such conditions as the Minister thinks fit.

- (8) A person must not contravene, or fail to comply with, a condition of an approval under subregulation (6).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (9) In this regulation—

*nominated agent* means a person approved by the Minister as a nominated agent under subregulation (6);

*relevant fishing activity* means—

- (a) the taking of pipi in the Lakes and Coorong; or
- (b) the taking of vongole;

*relevant quota entitlement* means—

- (a) a pipi quota entitlement; or
- (b) a vongole quota entitlement.

## **29—Catch and disposal requirements—vongole**

- (1) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement or the registered master of a registered boat used under such a licence must comply with the following provisions in respect of vongole taken under the licence:

- (a) the holder of the licence or registered master must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the catch and disposal of vongole taken under the licence as determined by the Minister;
- (b) the holder of the licence or registered master must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
- (c) the holder of the licence or registered master must ensure that vongole taken under the licence are weighed, stored, placed in containers, sealed, tagged, and transported, delivered, consigned or otherwise disposed of, and accompanied by such information, in accordance with the requirements (if any) as determined by the Minister.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence and the registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (3) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **30—Catch and disposal requirements—pipi**

- (1) The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement or the registered master of a registered boat used under such a licence must comply with the following provisions in respect of pipi taken under the licence:
  - (a) the holder of the licence or registered master must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the catch and disposal of pipi taken under the licence as determined by the Minister;
  - (b) the holder of the licence or registered master must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the holder of the licence or registered master must ensure that pipi taken under the licence are weighed, stored, placed in containers, sealed, tagged, and transported, delivered, consigned or otherwise disposed of, and accompanied by such information, in accordance with the requirements (if any) as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence and the registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (3) The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **31—Catch and disposal requirements—blue crab**

- (1) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a blue crab quota entitlement or the registered master of a boat from which blue crab is taken under such a licence must comply with the following provisions:
  - (a) the holder of the licence or registered master must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the catch and disposal of blue crab taken under the licence as determined by the Minister;
  - (b) the holder of the licence or registered master must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;



- (c) the holder of the licence or registered master must ensure that blue crab taken under the licence are weighed, stored, placed in containers, sealed, tagged, and transported, delivered, consigned or otherwise disposed of, and accompanied by such information, in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence and the registered master of the registered boat are each guilty of an offence.  
Maximum penalty: \$5 000.  
Expiation fee: \$500.
- (3) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a blue crab quota entitlement must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.

### **32—Catch and disposal requirements—sardines**

- (1) If sardines are taken from a registered boat under a MSSF licence, the holder of the licence or the registered master must comply with the following provisions:
  - (a) the holder of the licence must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the catch and disposal of sardines taken under the licence as determined by the Minister;
  - (b) the holder of the licence must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the holder of the licence must ensure that the sardines are weighed, stored, placed in containers, sealed, tagged, and transported, delivered, consigned or otherwise disposed of, and accompanied by such information, in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence is guilty of an offence.  
Maximum penalty: \$5 000.  
Expiation fee: \$500.
- (3) The holder of the licence must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$5 000.  
Expiation fee: \$315.

### **33—Vongole, pipi and sardines to be delivered or consigned to registered fish processor**

- (1) The holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a vongole quota entitlement must ensure that all vongole taken under the licence are delivered or consigned to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) The holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a pipi quota entitlement must ensure that all pipi taken under the licence are delivered or consigned to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The holder of a MSSF licence must ensure that all sardines taken under the licence are delivered or consigned to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **34—Restriction on unloading of sardines onto other boats**

The registered owner or registered master of a registered boat from which sardines are taken under a MSSF licence must not cause, suffer or permit the sardines to be unloaded onto another boat unless the other boat is specified on the certificate of registration of the registered fish processor to whom the sardines are to be consigned.

Maximum penalty: \$5 000.

Expiation fee: \$315.

### **35—Periodic returns**

- (1) The holder of a licence in respect of a marine scalefish fishery must provide the Department with such returns in the manner and form, at such times and containing such information, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (2) The holder of a licence must keep a record of each return that the licence holder provides to the Department under this regulation in such manner, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$500.

### **36—Provision relating to keeping of records**

A person required under these regulations to keep a record for a period of time must ensure that the record—

- (a) is maintained in a good condition and is legible; and
- (b) is kept so that it is readily accessible; and

(c) is produced for inspection by a fisheries officer on request.

Maximum penalty: \$2 500.

Expiation fee: \$210.

### **37—Minister's determinations**

- (1) The Minister may make a determination for the purposes of a regulation.
- (2) A determination may—
  - (a) be of general or limited application; and
  - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply.
- (3) If the Minister makes a determination, notice of the determination—
  - (a) must be published on the Department's website; and
  - (b) may also be published in the Gazette.
- (4) As soon as practicable after a determination of the Minister is made, a notice in writing setting out the date on which notice of the determination is published and the terms of the determination must be given to the persons bound by the determination in a manner and form that, in the opinion of the Minister, will bring the determination to the attention of those persons.
- (5) The Minister may, by further determination, vary or revoke a determination made for the purposes of a regulation.
- (6) This regulation does not apply in relation to a determination made for the purposes of regulation 14, 15, 16 or 17.

## **Schedule 1—Aquatic resources prescribed for marine scalefish fisheries**

### **Annelids**

Beachworm (Class Polychaeta)

Bloodworm (Class Polychaeta)

Tubeworm (Class Polychaeta)

### **Crustaceans**

Blue Crab (*Portunus armatus*)

Sand Crab (*Ovalipes* spp)

Velvet Crab (*Nectocarcinus tuberculatus*)

### **Molluscs**

Southern Calamari (*Sepioteuthis australis*)

Cockle

Cuttlefish (*Sepia* spp)

Mussel (*Mytilus* spp)

Octopus (*Octopus* spp)

Oyster (Family Ostreidae)

Scallop (Family Pectinidae)

Gould's Squid (*Notodarus gouldi*)

Vongole

**Scalefish**

Australian Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Black Bream (*Acanthopagrus butcheri*)

Cod of all 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*)

Yellowtail Kingfish (*Seriola lalandi*)

Leatherjacket (Family Monacanthidae)

Pink Ling (*Genypterus blacodes*)

Blue Mackerel (*Scomber australasicus*)

Common Jack Mackerel (*Trachurus declivis*)

Maray (*Etrumeus teres*)

Morwong (Family Cheilodactylidae)

Mullet of all species (Family Mugilidae)

Mulloway (*Argyrosomus japonicus*)

Redfish (*Centroberyx affinis*)

Bight Redfish (*Centroberyx gerrardi*)

West Australian Salmon (*Arripis truttaceus*)

Australian Sardine (*Sardinops sagax*)

Snapper (*Chrysophrys auratus*)

Snook (*Sphyraena novaehollandiae*)

Southern Sole (*Aseraggodes haackeanus*)

Blue Sprat (*Spratelloides robustus*)

Sandy Sprat (*Hyperlophus vittatus*)

Sea Sweep (*Scorpius aequipinnis*)

Swallowtail (*Centroberyx lineatus*)

Blue-eye Trevalla (*Hyperoglyphe antarctica*)

Trevally (*Carangidae* spp)

Western Striped Grunter (*Pelates octolineatus*)

Whiting (Family Sillaginidae)

Wrasse (Family Labridae) (other than Western Blue Groper (*Achoerodus gouldii*))

**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—Revocation of *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006* and transitional provision**

**1—Revocation of *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006***

The *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006* are revoked.

**2—Eligibility to be granted fishery licence**

- (1) Only a person who is, immediately before the commencement of these regulations, the holder of a licence in respect of the Marine Scalefish 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 the commencement of these regulations, the holder of a licence in respect of the Restricted Marine Scalefish Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

**Made by the Governor's Deputy**

with the advice and consent of the Executive Council  
on 8 August 2017

No 228 of 2017

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