

South Australia

Fisheries Management (Rock Lobster Fisheries) Regulations 2017

under the *Fisheries Management Act 2007*

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Schedule 1—Aquatic resources prescribed for rock lobster fisheries

Schedule 2—Revocation of regulations and transitional provisions

Part 1—Revocation of *Fisheries Management (Rock Lobster Fisheries)
Regulations 2006*

1	Revocation of regulations
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Part 2—Transitional provisions

2 Eligibility to be granted fishery licence

1—Short title

These regulations may be cited as the *Fisheries Management (Rock Lobster 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*;

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

cockle means any mollusc of—

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

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

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

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

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

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;

giant crab means giant crab (*Pseudocarcinus gigas*);

marine scalefish fishery has the same meaning as in the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017*;

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;

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

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°40'00.00" 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;

Northern Zone Inner Region means those waters of the Northern Zone commencing at the intersection of Mean High Water Springs and 133°53'00" East, then to position 33°42'00" South, 133°53'00" East, then to position 34°44'00" South, 134°17'00" East, then to position 35°54'00" South, 136°23'50" East, then to position 36°05'00" South, 136°30'00" East, then to position 36°30'00" South, 137°19'00" East, then to position 36°30'00" South, 138°40'00" East, then to position 36°20'00" South, 138°40'00" East, then to position 36°20'00" South, 139°00'00" East, then north along the meridian of longitude 139°00'00" East to the intersection of Mean High Water Springs, then following Mean High Water Springs in the generally west, north-westerly direction to the intersection with the point of commencement;

Northern Zone Outer Region means the waters of the Northern Zone that are not within the Northern Zone Inner Region;

Northern Zone Region or **Region** means the Northern Zone Inner Region or the Northern Zone Outer Region;

prescribed Victorian licence means a Victorian licence that is held by the holder of a licence in respect of the Southern Zone Rock Lobster Fishery as a result of a transfer made before 28 June 1990;

revoked regulations means the *Fisheries Management (Rock Lobster Fisheries) Regulations 2006*;

rock lobster means Southern Rock Lobster (*Jasus edwardsii*);

rock lobster fishery means—

- (a) the Northern Zone Rock Lobster Fishery; or
- (b) the Southern Zone Rock Lobster Fishery,

constituted by these regulations;

rock lobster pot means a fish trap designed and constructed for the purpose of taking rock lobster;

rock lobster pot entitlement means the maximum number of rock lobster pots that the holder of a licence in respect of a rock lobster fishery may lawfully use at any 1 time for the purpose of taking rock lobster under the licence;

South Australian licence means a licence in respect of the Southern Zone Rock Lobster Fishery;

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°40'00.00" 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;

Victorian licence means a licence, permit, authority or other entitlement that authorises the holder to take aquatic resources for sale from waters of the State of Victoria that are adjacent to or adjoin the Southern Zone;

vongole means any mollusc of the genus *Katelaysia*;

vongole fishing zone has the same meaning as in the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017*;

vongole quota entitlement—see regulation 13.

- (2) In these regulations, unless the contrary intention appears, **company**, **director**, **proprietary company** and **public company** have the same respective meanings as in the Corporations Act.
- (3) In these regulations—
 - (a) 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 Northern Zone Rock Lobster Fishery;
 - (b) the Southern Zone Rock Lobster Fishery.
- (2) The Northern Zone Rock Lobster Fishery consists of—
 - (a) the taking of rock lobster in the waters of the Northern Zone; and
 - (b) the taking of aquatic resources specified in Schedule 1 in the waters of the Northern Zone; and
 - (c) the taking of Razorfish (*Pinna bicolor*) in the waters of the Northern Zone for the purpose of bait.
- (3) The Southern Zone Rock Lobster Fishery consists of—
 - (a) the taking of rock lobster in the waters of the Southern Zone; and

- (b) the taking of aquatic resources specified in Schedule 1 in the waters of the Southern Zone; and
- (c) the taking of Razorfish (*Pinna bicolor*) in the waters of the Southern Zone for the purpose of bait.

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 27 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 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 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.

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 completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the documents specified in the application form.

9—Use of second registered boat

- (1) If 2 boats are registered for use under a licence in respect of a rock lobster fishery, the holder of the licence must not use both boats, or cause, suffer or permit both boats to be used, at the same time for taking aquatic resources under the licence unless the use made of 1 of the boats is limited to the setting and retrieval of bait nets and mesh nets.
Maximum penalty: \$5 000.
- (2) A second registered boat that is being used for the setting and retrieval of nets as referred to in subregulation (1) need not be in the charge of a registered master.

10—Restrictions on use of registered boat in Southern Zone

- (1) A registered boat must not be used to take aquatic resources under a licence in respect of the Southern Zone Rock Lobster Fishery (the *Fishery*) on a particular day if the boat has already been used on that day to take aquatic resources under a Victorian licence.
- (2) If a registered boat is to be used to take aquatic resources under a licence in respect of the Fishery or a Victorian licence on a particular day, the Department must be notified in the manner and form, and at such times, as determined by the Minister under which licence the boat is to be on that day.
- (3) If a registered boat is used to take aquatic resources on 2 or more consecutive days under the same licence, subregulation (2) need only be complied with in relation to the first day.
- (4) While aquatic resources taken outside waters to which this Act applies are aboard a registered boat—
 - (a) the boat must not be used to take aquatic resources under a licence in respect of the Fishery; and
 - (b) any aquatic resources taken in the waters of the Fishery must not be stored on the boat.

- (5) If a provision of this regulation is contravened or not complied with, the registered owner of the registered boat is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

11—Obligation of registered master to notify Department of use of bait nets

- (1) 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 before a bait net registered for use under a licence in respect of a rock lobster fishery is set in waters from a registered boat used under the licence.

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

Maximum penalty: \$5 000.

Expiation fee: \$315.

12—Restrictions on fishing activities during closed season in Northern Zone

- (1) Unless the Minister has, by notice in the Gazette, made a determination to the contrary, the holder of a licence in respect of the Northern Zone Rock Lobster Fishery must not take rock lobster in the Northern Zone Inner Region during a closed season.

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second offence—\$20 000;
- (c) for a third or subsequent offence—\$35 000.

Expiation fee: \$315.

- (2) Unless the Minister has, by notice in the Gazette, made a determination to the contrary, the holder of a licence in respect of the Northern Zone Rock Lobster Fishery must not set a rock lobster pot in the Northern Zone Inner Region during a closed season.

Maximum penalty:

- (a) for a first offence—\$10 000;
- (b) for a second offence—\$20 000;
- (c) for a third or subsequent offence—\$35 000.

Expiation fee: \$315.

- (3) In this regulation—

closed season means the period commencing at 1800 hours on 31 May in any year and ending at 1200 hours on the following 1 November.

13—Individual vongole catch quota system

- (1) In this regulation—

vongole quota entitlement or **quota entitlement**, in relation to an eligible rock lobster fishery licence or a licence in respect of a marine scalefish fishery 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;

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 under regulation 14 of the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017* to be the value of a vongole unit for a vongole fishing zone and a quota period.

- (2) In this regulation, a reference to a **quota period** is a reference to a period of 12 months commencing on 1 July.
- (3) The Minister may impose or vary conditions on eligible rock lobster fishery licences and licences in respect of a marine scalefish fishery fixing vongole quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 eligible rock lobster fishery licences 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 by the holder of an eligible rock lobster fishery licence subject to a condition fixing a vongole quota entitlement in respect of a particular vongole fishing zone and the holder of a licence in respect of a marine scalefish fishery 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 an eligible rock lobster fishery licence 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;
- (d) on joint application made to the Minister by the holder of an eligible rock lobster fishery licence 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;
- (e) if the total catch of vongole taken during a quota period by the holder of an eligible rock lobster fishery licence 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 an eligible rock lobster fishery licence 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 an eligible rock lobster 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) Subject to subregulation (7), the holder of an eligible rock lobster licence 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.
Expiation fee: \$315.
- (7) The holder of an eligible rock lobster fishery licence 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.

14—Rock lobster pot entitlements

- (1) The Minister may impose or vary conditions on licences in respect of a rock lobster fishery fixing rock lobster pot entitlements as follows:
- (a) a rock lobster pot entitlement may be fixed by condition of a licence but must—
 - (i) in the case of a licence in respect of the Northern Zone Rock Lobster Fishery—be not more than 100 and not less than 20;
 - (ii) in the case of a licence in respect of the Southern Zone Rock Lobster Fishery—be not more than 100 and not less than 40;

- (b) the rock lobster pot entitlement fixed by any such condition of a licence must be the number endorsed on the licence as the rock lobster pot entitlement under the revoked regulations immediately before the commencement of these regulations subject to any subsequent variation made in accordance with this regulation;
- (c) the rock lobster pot entitlements fixed by licence conditions as referred to in this regulation may be increased or decreased on the same proportionate basis for all licences (provided that where in relation to any licence the result of such proportionate variation would be a fractional entitlement, that fractional entitlement is increased to the next highest whole number) if the Minister is satisfied that it is appropriate to do so for the proper management of a rock lobster fishery;
- (d) subject to paragraph (e), on joint application made to the Minister by the holders of any 2 licences in respect of the same fishery, the rock lobster pot entitlements under the licences may be varied so as to increase the entitlement under 1 of the licences and decrease the entitlement under the other by a corresponding number;
- (e) a variation must not be made as referred to in paragraph (d) if it would result in the entitlement under 1 of the licences exceeding the upper limit referred to in paragraph (a);
- (f) a variation must not be made as referred to in paragraph (d) if it would result in the entitlement under 1 of the licences falling below the lower limit referred to in paragraph (a) unless—
 - (i) the variation is expressed to apply only until the expiry of the licence; or
 - (ii) —
 - (A) the licence is surrendered to the Minister; and
 - (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;
- (g) despite any other provisions of this regulation, if the rock lobster pot entitlement under a licence in respect of the Southern Zone Rock Lobster Fishery was, immediately before the commencement of these regulations, less than 40, the entitlement under that licence may, until the licence is transferred, continue to be fixed at a number less than 40;
- (h) despite any other provisions of this regulation, a variation may be made in accordance with paragraph (c) in respect of the Northern Zone Rock Lobster Fishery despite the fact that it would result in the rock lobster pot entitlement under a licence falling below 20 and, in that event, the entitlement under that licence may, until the licence is transferred, continue to be fixed at a number less than 20 but may not be decreased subsequently.

- (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 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 prescribed fee.
- (3) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must not, for a commercial purpose, engage in a fishing activity of a class that constitutes the Fishery while the rock lobster pot entitlement under the licence is less than 20.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) The holder of a licence in respect of the Southern Zone Rock Lobster Fishery must not, for a commercial purpose, engage in a fishing activity of a class that constitutes the Fishery while the rock lobster pot entitlement under the licence is less than 40.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (5) The Minister may impose conditions on licences in respect of a rock lobster fishery limiting the number of rock lobster pots that may be carried on boats and otherwise regulating the carrying of rock lobster pots on boats used for fishing activities under the licences.
- (6) If a court convicts the holder of a licence in respect of a rock lobster fishery of an offence of contravening a condition of the licence fixing a rock lobster pot entitlement, the court must make an order requiring the Minister to vary the conditions of the licence so as to reduce the rock lobster pot entitlement under the licence by 1 rock lobster pot for each rock lobster pot used in excess of the entitlement.

15—Individual rock lobster catch quota system—Northern Zone

- (1) In this regulation—

fishery means the Northern Zone Rock Lobster Fishery;

quota period means a period of 12 months commencing on 1 November;

rock lobster quota entitlement or *quota entitlement*, in relation to a licence in respect of the fishery and a Northern Zone Region, means the maximum number of kilograms of rock lobster that may be lawfully taken by the holder of the licence in that Region during a quota period, being the product of—
 - (a) the unit entitlement under the licence in respect of that Region; and
 - (b) the unit value for the Region and that quota period,subject to any variation applying during that quota period;

unit entitlement means the number of rock lobster units for the time being allocated to a licence in respect of the fishery for a Northern Zone Region.
- (2) The Minister must determine the number of kilograms of rock lobster that is to be the value of a rock lobster unit for a Northern Zone Region 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) subject to subregulation (4), on joint application made to the Minister by the holders of any 2 licences, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of a particular Northern Zone Region and decrease the unit entitlement under the other licence in respect of the same Northern Zone Region by a corresponding number of units;
 - (b) if the total catch of rock lobster taken by the holder of a licence in a particular Northern Zone Region during a particular quota period exceeded the rock lobster quota entitlement under the licence for that Region and that quota period, the Minister may vary the conditions of the licence so as to reduce the quota entitlement in respect of that Region—
 - (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 in respect of a Northern Zone Region,the conditions of the licence may be varied so as to reduce the rock lobster quota entitlement in respect of that Region 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.
- (4) If an application for the variation of a rock lobster quota entitlement under subregulation (3)—
- (a) is made in a quota period ending before 30 June 2019; and
 - (b) is not to apply only for the quota period during which it is made,
- the conditions of the licences must be varied so as to increase the unit entitlement under 1 of the licences by equal numbers of units in respect of each Northern Zone Region and decrease the unit entitlement under the other licence by a corresponding number of units in respect of each Northern Zone Region.
- (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—
 - (i) the documents specified in the application form; and
 - (ii) the prescribed fee.
- (6) The holder of a licence in respect of the fishery must not, for a commercial purpose—
 - (a) take rock lobster in a Northern Zone Region while the number of rock lobster units allocated to the licence in respect of that Region is less than 320; or
 - (b) take aquatic resources of a kind specified in Schedule 1 in the waters of the fishery while the number of rock lobster units allocated to the licence in respect of the Northern Zone Inner Region is less than 320.

Maximum penalty: \$5 000.

Expiation fee: \$500.

16—Individual rock lobster catch quota system—Southern Zone

- (1) In this regulation—

the fishery means the Southern Zone Rock Lobster Fishery;

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;

unit entitlement means the number of rock lobster units for the time being allocated to a licence;

unit value means the number of kilograms of rock lobster determined by the Minister to be the value of a rock lobster unit for the fishery and a quota period.

- (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 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 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 prescribed fee.

17—Individual giant crab catch quota system

- (1) In this regulation—
- 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 9 of the *Fisheries Management (Miscellaneous Fishery) Regulations 2015*;

Miscellaneous Fishery means the fishery of that name constituted by the *Fisheries Management (Miscellaneous Fishery) Regulations 2015*;

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;

unit entitlement—

- (a) in relation to a licence in respect of a rock lobster fishery—means the number of giant crab units for the time being allocated to the licence;
- (b) in relation to a licence in respect of the Miscellaneous Fishery—has the same meaning as in regulation 9 of the *Fisheries Management (Miscellaneous Fishery) Regulations 2015*;

unit value means the number of kilograms of giant crab determined by the Minister to be the value of a giant crab unit for a rock lobster fishery and a quota period.

- (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 impose or 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;
 - (e) 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;
 - (f) 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 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 prescribed fee.

18—Restriction on taking of vongole and cockles

- (1) The holder of a rock lobster licence 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 rock lobster 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.

19—Rock lobster taken in Northern Zone to be landed whole within State

The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must ensure that rock lobster taken under the licence—

- (a) is landed whole; and
- (b) is landed within the State.

Maximum penalty: \$5 000.

Expiation fee: \$315.

20—Disposal of rock lobster and giant crab

- (1) Subject to subregulation (2), the holder of a licence in respect of a rock lobster fishery must ensure that all rock lobster and giant crab taken under the licence are consigned or delivered to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If a rock lobster is found to be dead when it is landed, the holder of the licence may retain the dead landed rock lobster for a non-commercial purpose, provided that—
 - (a) there are no more than 2 such rock lobster at any time on the boat on which they are landed; and
 - (b) the total number of such rock lobster retained by the holder of a licence in a financial year does not exceed 30.

21—Information to be provided—taking vongole

- (1) If fishing activities involving the taking of vongole under an eligible rock lobster fishery licence 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.

22—Catch and disposal requirements (rock lobster)—Northern Zone

- (1) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery or the registered master of a registered boat from which rock lobster is taken under such a licence must—

- (a) notify the Department, in the manner and form, and at such times, as determined by the Minister, of the information specified by the Minister in the determination, before the rock lobster is removed from the boat; and
- (b) notify the Department of any changes in the information notified under paragraph (a) as determined by the Minister, in the manner and form and in accordance with the requirements specified by the Minister in the determination.

- (2) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery or the registered master of a registered boat from which rock lobster is taken under such a licence must comply with the following provisions in respect of rock lobster 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 rock lobster 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 rock lobster taken under the licence is 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.

- (3) If a determination of the Minister made for the purposes of subregulation (1) or (2) 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.

- (4) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must keep records made under subregulation (2) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

23—Catch and disposal requirements (rock lobster)—Southern Zone

- (1) Unless the rock lobster is to be weighed at a certification station nominated by the Minister by notice in the Gazette between the hours specified in the notice, if rock lobster is taken under a South Australian licence, the holder of the licence or the registered master of the registered boat from which the rock lobster is taken must—
 - (a) notify the Department in the manner and form, and at such times, as determined by the Minister, of the information specified by the Minister in the determination, before the rock lobster is removed from the boat; and
 - (b) notify the Department of any changes in the information notified under paragraph (a) as determined by the Minister, in the manner and form and in accordance with the requirements specified by the Minister in the determination.
- (2) The holder of a South Australian licence or the registered master of a registered boat used under a South Australian 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 rock lobster taken under the licence as determined by the Minister;
 - (b) if rock lobster taken under a Victorian licence is on board a registered boat used under the South Australian licence when the boat enters the Southern Zone, the holder of the South Australian licence or registered master of a registered boat used under the South Australian 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 rock lobster taken under the Victorian licence as determined by the Minister;
 - (c) the holder of the licence or registered master must provide the information recorded under paragraph (a) or (b) to the Department in the manner and form, and at such times, as determined by the Minister;
 - (d) the holder of the licence or registered master must ensure that rock lobster taken under the licence or a Victorian licence is 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.
- (3) If a determination of the Minister made for the purposes of subregulation (1) or (2) 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.
- (4) The holder of a licence in respect of the Southern Zone Rock Lobster Fishery must keep records made under subregulation (2) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.
Expiation fee: \$315.

24—Catch and disposal requirements (giant crab)—Southern Zone

- (1) Unless the giant crab is to be weighed at a certification station nominated by the Minister by notice in the Gazette between the hours specified in the notice, if giant crab is taken under a licence in respect of the Southern Zone Rock Lobster Fishery subject to a condition fixing a giant crab quota entitlement, the holder of the licence or the registered master of the registered boat from which the giant crab is taken must—
 - (a) notify the Department in the manner and form, and at such times, as determined by the Minister, of the information specified by the Minister in the determination, before the giant crab is removed from the registered boat from which it was taken; and
 - (b) notify the Department of any changes in the information notified under paragraph (a) as determined by the Minister, in the manner and form and in accordance with the requirements specified by the Minister in the determination.
- (2) The holder of a licence in respect of the Southern Zone Rock Lobster Fishery subject to a condition fixing a giant crab quota entitlement or the registered master of a registered boat used to take giant crab 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 giant 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 giant crab taken under the licence is 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.
- (3) If a determination of the Minister made for the purposes of subregulation (1) or (2) 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.
- (4) The holder of a licence in respect of the Southern Zone Rock Lobster Fishery subject to a condition fixing a giant crab quota entitlement must keep records made under subregulation (2) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.
Expiation fee: \$315.

25—Catch and disposal requirements—vongole

- (1) The holder of an eligible rock lobster fishery licence 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 is 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 are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (3) The holder of an eligible rock lobster fishery licence 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.

26—Disposal of vongole

The holder of an eligible rock lobster fishery licence subject to a condition fixing a vongole quota entitlement must ensure that all vongole taken under the licence are consigned or delivered to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

27—Periodic returns

- (1) The holder of a licence in respect of a rock lobster 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.

28—Victorian licences

A person who is the holder of a licence in respect of the Southern Zone Rock Lobster Fishery must—

- (a) if the person becomes the holder of a Victorian licence, notify the Department in the manner and form, and within such time, as determined by the Minister; or
- (b) if the person ceases to hold a Victorian licence, notify the Department in the manner and form, and within such time, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

29—Sale of rock lobster during closed season

- (1) 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.

- (2) It is a defence to a charge of an offence against subregulation (1) if the defendant proves that the defendant did not take the rock lobster to which the charge relates in the Southern Zone.

30—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.

31—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 it is expressed to apply.

- (3) If the Minister makes a determination for the purposes of a regulation, 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.
- (6) This regulation does not apply in relation to a determination made for the purposes of regulation 12, 13, 15, 16 or 17.

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 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 (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 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*)
Sea Sweep (*Scorpius aequipinnis*)
Swallowtail (*Centroberyx lineatus*)
Blue-eye Trevalla (*Hyperoglyphe antarctica*)
Trevally (*Carangidae* spp)
Whiting (Family Sillaginidae)
Wrasse (*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 regulations and transitional provisions

Part 1—Revocation of *Fisheries Management (Rock Lobster Fisheries) Regulations 2006*

1—Revocation of regulations

The *Fisheries Management (Rock Lobster Fisheries) Regulations 2006* are revoked.

Part 2—Transitional provisions

2—Eligibility to be granted fishery licence

- (1) Only a person who is, immediately before the commencement of this clause, 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 the commencement of this clause, 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.

Made by the Governor's Deputy

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

No 235 of 2017

DPC17/041CS