

South Australia

Fisheries Management (Marine Scalefish Fisheries) (Fishery Reform) Variation Regulations 2021

under the *Fisheries Management Act 2007*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries Management (Marine Scalefish Fisheries) (Fishery Reform) Variation Regulations 2021*.

2—Commencement

These regulations come into operation on 1 July 2021.

3—Variation provisions

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

Part 2—Variation of *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017*

4—Variation of regulation 1—Short title

Regulation 1—delete "*Fisheries*" second occurring and substitute:

Fishery

5—Variation of regulation 3—Interpretation

(1) Regulation 3(1), definition of *Coffin Bay vongole fishing zone*—delete the definition

(2) Regulation 3(1)—after the definition of *domestic partner* insert:

fishery means the Marine Scalefish Fishery constituted by these regulations;

Gulf St. Vincent and Kangaroo Island Fishing Zone means the waters of Gulf St. Vincent and surrounding waters contained within and bounded by a line commencing at Mean High Water Springs closest to 34°59'59.95" South, 136°58'07.73" East (Gleasons Landing, Yorke Peninsula), then beginning southerly following the line of Mean High Water Springs to the location closest to 35°38'26.13" South, 138°07'28.73" East (southern Fleurieu Peninsula), then southerly to Mean High Water Springs closest to 35°48'07.14" South, 138°07'28.73" East (Cape St. Albans, Kangaroo Island), then beginning south-westerly following the line of Mean High Water Springs to the location closest to 35°59'59.95" South, 136°41'04.52" East (south-western Kangaroo Island), then westerly to 35°59'59.95" South, 136°00'00.03" East, then northerly to 35°29'59.95" South, 136°00'00.03" East, then easterly to 35°29'59.95" South, 136°40'12.03" East, then northerly to 34°59'59.95" South, 136°40'12.03" East, then easterly to the point of commencement;

- (3) Regulation 3(1)—after the definition of ***Gulf St. Vincent Blue Crab Fishing Zone*** insert:

King George whiting means *Syllaginodes punctatus*;

King George whiting fishing zone means—

- (a) the Gulf St. Vincent and Kangaroo Island Fishing Zone; or
- (b) the Spencer Gulf Fishing Zone;

- (4) Regulation 3(1), definitions of ***marine scalefish fishery*** and ***MSSF licence***—delete the definitions and substitute:

Murray Mouth means the Coorong and coastal waters within 500 metres of 35°33'30.73" South, 138°52'47.37" East;

- (5) Regulation 3(1), definition of ***Port River vongole fishing zone***—delete the definition and substitute:

rock lobster fishery has the same meaning as in the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

- (6) Regulation 3(1)—definitions of ***sardine***, ***sardine net*** and ***sardine quota entitlement***—delete the definitions and substitute:

snapper means *Chrysophrys auratus*;

snapper fishing zone means—

- (a) the Gulf St. Vincent and Kangaroo Island Fishing Zone; or
- (b) the South East Fishing Zone; or
- (c) the Spencer Gulf Fishing Zone; or
- (d) the West Coast Fishing Zone;

South East Fishing Zone means the waters adjacent the south east coast of South Australia contained within and bounded by a line commencing at Mean High Water Springs closest to 35°38'26.13" South, 138°07'28.73" East (southern Fleurieu Peninsula), then beginning south-easterly following the line of Mean High Water Springs to the location closest to 38°03'39.05" South, 141°00'00.02" East (South Australian-Victorian border), but excluding the Murray Mouth, then southerly to 38°59'59.95" South, 141°00'00.02" East, then westerly to 38°59'59.95" South, 140°00'00.02" East, then northerly to 37°59'59.95" South, 140°00'00.02" East, then westerly to 37°59'59.95" South, 136°00'00.03" East, then northerly to 35°59'59.95" South, 136°00'00.03" East, then easterly to 35°59'59.95" South, 136°41'04.52" East (south-western Kangaroo Island), then beginning south-easterly following the line of Mean High Water Springs to the location closest to 35°48'07.14" South, 138°07'28.73" East (Cape St. Albans, Kangaroo Island), then northerly to the point of commencement;

southern calamari means *Sepioteuthis australis*;

southern calamari fishing zone means—

- (a) the Gulf St. Vincent and Kangaroo Island Fishing Zone; or
- (b) the Spencer Gulf Fishing Zone;

southern garfish means *Hyporhamphus melanochir*;

southern garfish fishing zone means—

- (a) the Gulf St. Vincent and Kangaroo Island Fishing Zone; or
- (b) the Spencer Gulf Fishing Zone;

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

- (7) Regulation 3(1)—after the definition of ***Spencer Gulf Blue Crab Fishing Zone*** insert:

Spencer Gulf Fishing Zone means the waters of Spencer Gulf and surrounding water contained within and bounded by a line commencing at Mean High Water Springs closest to 33°59'59.90" South, 135°15'32.12" East (western Eyre Peninsula), then beginning southerly following the line of Mean High Water Springs to the location closest to 34°59'59.95" South, 136°58'07.73" East (Gleasons Landing, Yorke Peninsula), then westerly to 34°59'59.95" South, 136°40'12.03" East, then southerly to 35°29'59.95" South, 136°40'12.03" East, then westerly to 35°29'59.95" South, 136°00'00.03" East, then southerly to 36°59'59.95" South, 136°00'00.03" East, then westerly to 36°59'59.95" South, 135°00'00.03" East, then northerly to 35°59'59.95" South, 135°00'00.03" East, then westerly to 35°59'59.95" South, 134°00'00.03" East, then northerly to 33°59'59.95" South, 134°00'00.03" East, then easterly to the point of commencement;

- (8) Regulation 3(1), definitions of *vongole fishing zone*, *vongole quota entitlement* and *West Coast vongole fishing zone*—delete the definitions and substitute:

West Coast Fishing Zone means the waters adjacent the west coast of South Australia contained within and bounded by a line commencing at Mean High Water Springs closest to 31°41'16.13" South, 129°00'00.03" East (Western Australian-South Australian border), then beginning southerly following the line of Mean High Water Springs to the location closest to 33°59'59.90" South, 135°15'32.12" East (western Eyre Peninsula), then westerly to 33°59'59.95" South, 134°00'00.03" East, then southerly to 34°59'59.95" South, 134°00'00.03" East, then westerly to 34°59'59.95" South, 132°00'00.03" East, then northerly to 33°59'59.95" South, 132°00'00.03" East, then westerly to 33°59'59.95" South, 131°00'00.03" East, then northerly to 32°59'59.95" South, 131°00'00.03" East, then westerly to 32°59'59.95" South, 129°00'00.03" East, then northerly to the point of commencement.

- (9) Regulation 3(2)(a) and (b)—delete paragraphs (a) and (b) and substitute:
- (a) all lines in spatial descriptions are geodesics based on the Geocentric Datum of Australia 2020 (**GDA2020**) as defined in the determination under section 8A of the *National Measurement Act 1960* of the Commonwealth for the recognised-value standard of measurement position, and all coordinates are expressed in terms of GDA2020;
 - (b) common and scientific fish names are given according to AS5300—2019 *Australian Fish Names Standard* published by the Fisheries Research & Development Corporation, as in force from time to time;

6—Substitution of regulations 4 and 5

Regulations 4 and 5—delete regulations 4 and 5 and substitute:

4—Constitution of fishery

- (1) The Marine Scalefish Fishery is constituted.
- (2) The Marine Scalefish Fishery consists of—
 - (a) the taking of aquatic resources specified in Schedule 1 Part 1 in coastal waters; and
 - (b) the taking of aquatic resources specified in Schedule 1 Part 2 in coastal waters for the purpose of bait.

5—Issue of licences

- (1) Subject to this regulation, the Minister may issue licences in respect of the fishery.
- (2) An application for a licence in respect of the fishery may only be made—
 - (a) by a person who is, immediately before the commencement of this regulation, the holder of a licence in respect of the Marine Scalefish Fishery; or

- (b) by a person—
 - (i) to whom a licence in respect of the fishery was transferred under these regulations; and
 - (ii) who makes the application on or before the expiration of that licence held by the person (or subsequent licence held by the person in substitution for that licence).

7—Variation of regulation 6—Transfer of licences

- (1) Regulation 6(2)—delete "a marine scalefish fishery" and substitute:
the fishery
- (2) Regulation 6(3)—delete subregulation (3)
- (3) Regulation 6(5)(b)—delete paragraph (b)
- (4) Regulation 6(5)(g)—delete "a marine scalefish fishery" and substitute:
the fishery

8—Variation of regulation 7—Transfer of licences between family members

- Regulation 7—delete "Marine Scalefish Fishery" and substitute:
fishery

9—Variation of regulation 8—Transfer of licences under amalgamation scheme

- (1) Regulation 8(1), definition of *licence*—delete "a marine scalefish fishery" and substitute:
the fishery
- (2) Regulation 8(4)(a) to (c)—delete paragraphs (a) to (c) (inclusive) and substitute:
 - (a) a net licence in respect of the fishery may be transferred to the holder of another net licence in respect of the fishery;
 - (b) a line licence in respect of the fishery may be transferred to the holder of another line licence in respect of the fishery;
- (3) Regulation 8(4)(d)—delete ", or 2 of the 3 licences (as the case may be)"

10—Variation of regulation 9—Registration

- (1) Regulation 9—delete "a marine scalefish fishery" wherever occurring and substitute in each case:
the fishery
- (2) Regulation 9(2)(c)—delete paragraph (c)
- (3) Regulation 9(2)(d)(iii)—delete subparagraph (iii)

11—Variation of regulation 10—Revocation of registration

- Regulation 10(1)—delete "a marine scalefish fishery" and substitute:
the fishery

12—Variation of regulation 11—Restriction on fishing activities in which registered masters other than licence holder may be engaged

- (1) Regulation 11—delete "a marine scalefish fishery" and substitute:
the fishery
- (2) Regulation 11(b)—delete paragraph (b)
- (3) Regulation 11(c)—delete ", sand crab pots or sardine nets" and substitute:
or sand crab pots

13—Revocation of regulation 12

Regulation 12—delete the regulation

14—Variation of regulation 13—Carriage of crab nets on boats

Regulation 13—delete "a marine scalefish fishery" and substitute:
the fishery

15—Substitution of regulation 14

Regulation 14—delete the regulation and substitute:

14—Individual King George whiting catch quota system

- (1) In this regulation—

King George whiting quota entitlement or ***quota entitlement***, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a King George whiting fishing zone, means the maximum number of kilograms of King George whiting 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;

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

quota period 2021-2022 means the quota period commencing on 1 July 2021;

unit entitlement, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a King George whiting fishing zone, means the number of King George whiting units for the time being allocated to the licence in respect of that zone;

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

- (2) The Minister must, by notice in the Gazette, on or before the commencement of the quota period 2021-2022—
 - (a) determine the total allowable commercial catch for that quota period for the Marine Scalefish Fishery, the Northern Zone Rock Lobster Fishery and the Southern Zone Rock Lobster Fishery and each King George whiting fishing zone; and
 - (b) determine the number of kilograms of King George whiting that is to be the value of a King George whiting unit for each King George whiting fishing zone and that quota period; and
 - (c) determine the methodology or formula by which King George whiting units are to be allocated to licences in respect of the fishery on which a condition fixing a King George whiting quota entitlement is to be imposed (which may, without limitation, provide for or include a scheme for the allocation of additional King George whiting units on the basis of exceptional circumstances that apply to the holder of a licence, as determined by the Minister).
- (3) The Minister may vary or revoke a determination under subregulation (2) by further notice in the Gazette.
- (4) The Minister must, on or before the commencement of each quota period commencing after the quota period 2021-2022, determine the number of kilograms of King George whiting that is to be the value of a King George whiting unit for each King George whiting fishing zone and that quota period.
- (5) The Minister may impose or vary conditions on licences in respect of the Marine Scalefish Fishery or a rock lobster fishery fixing King George whiting quota entitlements as follows:
 - (a) a condition may be imposed on a licence in respect of the Marine Scalefish Fishery fixing a King George whiting quota entitlement;
 - (b) 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 King George whiting quota entitlement in respect of the same King George whiting 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 King George whiting fishing 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 the Marine Scalefish Fishery subject to a condition fixing a King George whiting quota entitlement in respect of a particular King George whiting fishing zone (the *first licence*) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a King George whiting 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 King George whiting 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 the Marine Scalefish Fishery subject to a condition fixing a King George whiting quota entitlement in respect of a particular King George whiting fishing zone (the *first licence*) and the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a King George whiting quota entitlement in respect of the same King George whiting fishing zone (the *second licence*)—
 - (i) the conditions of the first licence may be varied so as to increase the unit entitlement under the licence in respect of that zone; and
 - (ii) 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;
- (e) on joint application made to the Minister by the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a King George whiting quota entitlement in respect of a particular King George whiting fishing zone (the *first licence*) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a King George whiting 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 King George whiting quota entitlement in respect of that zone may be imposed on that licence;

- (f) if the total catch of King George whiting taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the King George whiting quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the King George whiting quota entitlement for the following quota period—
 - (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 100 kilograms—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (g) if the total catch of King George whiting taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the King George whiting quota entitlement under the licence for that quota period by more than 100 kilograms of King George whiting, the conditions of the licence may be varied so as to decrease the King George whiting quota entitlement under the licence for the following 3 quota periods by 1 kilogram for each kilogram taken in excess of the quota entitlement.
- (6) 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.
- (7) 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—Variation of regulation 16—Individual blue crab catch quota system

Regulation 16—delete "a marine scalefish fishery" wherever occurring and substitute in each case:

the Marine Scalefish Fishery

17—Substitution of regulation 17

Regulation 17—delete the regulation and substitute:

17—Individual snapper catch quota system

(1) In this regulation—

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

quota period 2021-2022 means the quota period commencing on 1 July 2021;

snapper quota entitlement or **quota entitlement**, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a snapper fishing zone, means the maximum number of kilograms of snapper 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, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a snapper fishing zone, means the number of snapper units for the time being allocated to the licence in respect of that zone;

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

(2) The Minister must, by notice in the Gazette, on or before the commencement of the quota period 2021-2022—

- (a) determine the total allowable commercial catch for that quota period for the Marine Scalefish Fishery, the Northern Zone Rock Lobster Fishery and the Southern Zone Rock Lobster Fishery and each snapper fishing zone; and
- (b) determine the number of kilograms of snapper that is to be the value of a snapper unit for each snapper fishing zone and that quota period; and
- (c) determine the methodology or formula by which snapper units are to be allocated to licences in respect of the fishery on which a condition fixing a snapper quota entitlement is to be imposed (which may, without limitation, provide for or include a scheme for the allocation of additional snapper units on the basis of exceptional circumstances that apply to the holder of a licence, as determined by the Minister).

(3) The Minister may vary or revoke a determination under subregulation (2) by further notice in the Gazette.

- (4) The Minister must, on or before the commencement of each quota period commencing after the quota period 2021-2022, determine the number of kilograms of snapper that is to be the value of a snapper unit for each snapper fishing zone and that quota period.
- (5) The Minister may impose or vary conditions on licences in respect of the Marine Scalefish Fishery or a rock lobster fishery fixing snapper quota entitlements as follows:
 - (a) a condition may be imposed on a licence in respect of the Marine Scalefish Fishery fixing a snapper quota entitlement;
 - (b) 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 snapper quota entitlement in respect of the same snapper 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 snapper fishing 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 the Marine Scalefish Fishery subject to a condition fixing a snapper quota entitlement in respect of a particular snapper fishing zone (the ***first licence***) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a snapper 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 snapper 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 the Marine Scalefish Fishery subject to a condition fixing a snapper quota entitlement in respect of a particular snapper fishing zone (the ***first licence***) and the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a snapper quota entitlement in respect of the same snapper fishing zone (the ***second licence***)—
 - (i) the conditions of the first licence may be varied so as to increase the unit entitlement under the licence in respect of that zone; and

- (ii) 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;
 - (e) on joint application made to the Minister by the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a snapper quota entitlement in respect of a particular snapper fishing zone (the *first licence*) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a snapper 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 snapper quota entitlement in respect of that zone may be imposed on that licence;
 - (f) if the total catch of snapper taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the snapper quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the snapper quota entitlement for the following quota period—
 - (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 100 kilograms—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (g) if the total catch of snapper taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the snapper quota entitlement under the licence for that quota period by more than 100 kilograms of snapper, the conditions of the licence may be varied so as to decrease the snapper quota entitlement under the licence for the following 3 quota periods by 1 kilogram for each kilogram taken in excess of the quota entitlement.
- (6) 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.
- (7) 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.

17A—Individual southern calamari catch quota system

- (1) In this regulation—

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

quota period 2021-2022 means the quota period commencing on 1 July 2021;

southern calamari quota entitlement or ***quota entitlement***, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a southern calamari fishing zone, means the maximum number of kilograms of southern calamari 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, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a southern calamari fishing zone, means the number of southern calamari units for the time being allocated to the licence in respect of that zone;

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

- (2) The Minister must, by notice in the Gazette, on or before the commencement of the quota period 2021-2022—
- (a) determine the total allowable commercial catch for that quota period for the Marine Scalefish Fishery, the Northern Zone Rock Lobster Fishery and the Southern Zone Rock Lobster Fishery and each southern calamari fishing zone; and
 - (b) determine the number of kilograms of southern calamari that is to be the value of a southern calamari unit for each southern calamari fishing zone and that quota period; and

- (c) determine the methodology or formula by which southern calamari units are to be allocated to licences in respect of the fishery on which a condition fixing a southern calamari quota entitlement is to be imposed (which may, without limitation, provide for or include a scheme for the allocation of additional southern calamari units on the basis of exceptional circumstances that apply to the holder of a licence, as determined by the Minister).
- (3) The Minister may vary or revoke a determination under subregulation (2) by further notice in the Gazette.
- (4) The Minister must, on or before the commencement of each quota period commencing after the quota period 2021-2022, determine the number of kilograms of southern calamari that is to be the value of a southern calamari unit for each southern calamari fishing zone and that quota period.
- (5) The Minister may impose or vary conditions on licences in respect of the Marine Scalefish Fishery or a rock lobster fishery fixing southern calamari quota entitlements as follows:
 - (a) a condition may be imposed on a licence in respect of the Marine Scalefish Fishery fixing a southern calamari quota entitlement;
 - (b) 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 southern calamari quota entitlement in respect of the same southern calamari 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 southern calamari fishing 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 the Marine Scalefish Fishery subject to a condition fixing a southern calamari quota entitlement in respect of a particular southern calamari fishing zone (the ***first licence***) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a southern calamari 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 southern calamari 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 the Marine Scalefish Fishery subject to a condition fixing a southern calamari quota entitlement in respect of a particular southern calamari fishing zone (the ***first licence***) and the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a southern calamari quota entitlement in respect of the same southern calamari fishing zone (the ***second licence***)—
 - (i) the conditions of the first licence may be varied so as to increase the unit entitlement under the licence in respect of that zone; and
 - (ii) 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;
- (e) on joint application made to the Minister by the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a southern calamari quota entitlement in respect of a particular southern calamari fishing zone (the ***first licence***) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a southern calamari 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 southern calamari quota entitlement in respect of that zone may be imposed on that licence;
- (f) if the total catch of southern calamari taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the southern calamari quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the southern calamari quota entitlement for the following quota period—
 - (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 100 kilograms—by 2 kilograms for each kilogram taken in excess of the quota entitlement;

- (g) if the total catch of southern calamari taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the southern calamari quota entitlement under the licence for that quota period by more than 100 kilograms of southern calamari, the conditions of the licence may be varied so as to decrease the southern calamari quota entitlement under the licence for the following 3 quota periods by 1 kilogram for each kilogram taken in excess of the quota entitlement.
- (6) 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.
- (7) 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.

17B—Individual southern garfish catch quota system

- (1) In this regulation—

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

quota period 2021-2022 means the quota period commencing on 1 July 2021;

southern garfish quota entitlement or ***quota entitlement***, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a southern garfish fishing zone, means the maximum number of kilograms of southern garfish 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, in relation to a licence in respect of the Marine Scalefish Fishery or a rock lobster fishery and a southern garfish fishing zone, means the number of southern garfish units for the time being allocated to the licence in respect of that zone;

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

- (2) The Minister must, by notice in the Gazette, on or before the commencement of the quota period 2021-2022—
 - (a) determine the total allowable commercial catch for that quota period for the Marine Scalefish Fishery, the Northern Zone Rock Lobster Fishery and the Southern Zone Rock Lobster Fishery and each southern garfish fishing zone; and
 - (b) determine the number of kilograms of southern garfish that is to be the value of a southern garfish unit for each southern garfish fishing zone and that quota period; and
 - (c) determine the methodology or formula by which southern garfish units are to be allocated to licences in respect of the fishery on which a condition fixing a southern garfish quota entitlement is to be imposed (which may, without limitation, provide for or include a scheme for the allocation of additional southern garfish units on the basis of exceptional circumstances that apply to the holder of a licence, as determined by the Minister).
- (3) The Minister may vary or revoke a determination under subregulation (2) by further notice in the Gazette.
- (4) The Minister must, on or before the commencement of each quota period commencing after the quota period 2021-2022, determine the number of kilograms of southern garfish that is to be the value of a southern garfish unit for each southern garfish fishing zone and that quota period.
- (5) The Minister may impose or vary conditions on licences in respect of the Marine Scalefish Fishery or a rock lobster fishery fixing southern garfish quota entitlements as follows:
 - (a) a condition may be imposed on a licence in respect of the Marine Scalefish Fishery fixing a southern garfish quota entitlement;
 - (b) 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 southern garfish quota entitlement in respect of the same southern garfish 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 southern garfish fishing 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 the Marine Scalefish Fishery subject to a condition fixing a southern garfish quota entitlement in respect of a particular southern garfish fishing zone (the *first licence*) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a southern garfish 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 southern garfish 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 the Marine Scalefish Fishery subject to a condition fixing a southern garfish quota entitlement in respect of a particular southern garfish fishing zone (the *first licence*) and the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a southern garfish quota entitlement in respect of the same southern garfish fishing zone (the *second licence*)—
 - (i) the conditions of the first licence may be varied so as to increase the unit entitlement under the licence in respect of that zone; and
 - (ii) 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;
- (e) on joint application made to the Minister by the holder of a licence in respect of a rock lobster fishery subject to a condition fixing a southern garfish quota entitlement in respect of a particular southern garfish fishing zone (the *first licence*) and the holder of a licence in respect of the Marine Scalefish Fishery not subject to a condition fixing a southern garfish 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 southern garfish quota entitlement in respect of that zone may be imposed on that licence;

- (f) if the total catch of southern garfish taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the southern garfish quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the southern garfish quota entitlement for the following quota period—
 - (i) if the catch exceeded the quota entitlement by not more than 200 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 200 kilograms but not more than 400 kilograms—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (g) if the total catch of southern garfish taken during a quota period by the holder of a licence in respect of the Marine Scalefish Fishery exceeded the southern garfish quota entitlement under the licence for that quota period by more than 400 kilograms of southern garfish, the conditions of the licence may be varied so as to decrease the southern garfish quota entitlement under the licence for the following 3 quota periods by 1 kilogram for each kilogram taken in excess of the quota entitlement.
- (6) 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.
- (7) 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.

18—Variation of regulation 18—Restrictions on taking certain species

- (1) Regulation 18—delete "a marine scalefish fishery" wherever occurring and substitute in each case:
 - the fishery
- (2) Regulation 18(1)—delete subregulation (1) and substitute:
 - (1) The holder of a licence in respect of the fishery 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.

- (3) Regulation 18(6)—delete subregulation (6) and substitute:

- (6) The holder of a licence in respect of the fishery must not take sardines under the licence unless—
 - (a) the sardines are taken solely for the purpose of bait to be used to take aquatic resources under the licence; and
 - (b) the number of sardines taken for that purpose on any 1 day does not exceed the number fixed by condition of the licence as the maximum number of sardines that may be taken in any 1 day for that purpose.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (7) The holder of a licence in respect of the fishery must not take King George whiting in a King George whiting fishing zone for a commercial purpose unless the licence is subject to a condition fixing a King George whiting quota entitlement in relation to that zone.

Maximum penalty: \$5 000.

Expiation fee: \$315.

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

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (9) The holder of a licence in respect of the fishery must not take southern calamari in a southern calamari fishing zone for a commercial purpose unless the licence is subject to a condition fixing a southern calamari quota entitlement in relation to that zone.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (10) The holder of a licence in respect of the fishery must not take southern garfish in a southern garfish fishing zone for a commercial purpose unless the licence is subject to a condition fixing a southern garfish quota entitlement in relation to that zone.

Maximum penalty: \$5 000.

Expiation fee: \$315.

19—Variation of regulation 19—Restriction on use of cockle rakes

Regulation 19—delete "a marine scalefish fishery" and substitute:
the fishery

20—Variation of regulation 20—Pipi to be landed within State

Regulation 20—delete "Marine Scalefish Fishery" and substitute:
fishery

21—Variation of regulation 21—Restriction on use of sand crab pots

Regulation 21—delete "Marine Scalefish Fishery" and substitute:
fishery

22—Variation of regulation 22—Restriction on carriage of devices on registered boat

Regulation 22(1)—delete "Marine Scalefish Fishery" and substitute:
fishery

23—Revocation of regulation 23

Regulation 23—delete the regulation

24—Variation of regulation 24—Information to be provided—taking King George whiting

Regulation 24(1)—delete subregulation (1) and substitute:

- (1) If fishing activities involving the taking of King George whiting under a licence in respect of the fishery subject to a condition fixing a King George whiting 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.

25—Variation of regulation 25—Information to be provided—taking pipi

Regulation 25(1)—delete "Marine Scalefish Fishery" and substitute:
fishery

26—Insertion of regulations 25A to 25C

After regulation 25 insert:

25A—Information to be provided—taking snapper

- (1) If fishing activities involving the taking of snapper under a licence in respect of the fishery subject to a condition fixing a snapper 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.

25B—Information to be provided—taking southern calamari

- (1) If fishing activities involving the taking of southern calamari under a licence in respect of the fishery subject to a condition fixing a southern calamari 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.

25C—Information to be provided—taking southern garfish

- (1) If fishing activities involving the taking of southern garfish under a licence in respect of the fishery subject to a condition fixing a southern garfish 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.

27—Revocation of regulation 26

Regulation 26—delete the regulation

28—Variation of regulation 27—Use of agents in fishing activities—licences under which boats are registered

- (1) Regulation 27(2)—delete "a marine scalefish fishery" and substitute:
the fishery
- (2) Regulation 27—delete "Marine Scalefish Fishery" wherever occurring and substitute in each case:
fishery
- (3) Regulation 27(6)—delete the subregulation (6)

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

- (1) Regulation 28—delete "Marine Scalefish Fishery" wherever occurring and substitute in each case:
fishery
- (2) Regulation 28(2)—delete "relevant quota entitlement" and substitute:
pipi quota entitlement
- (3) Regulation 28(2)—delete "a relevant fishing activity" and substitute:
the taking of pipi in the Lakes and Coorong
- (4) Regulation 28(5)—delete "a relevant fishing activity" and substitute:
the taking of pipi in the Lakes and Coorong
- (5) Regulation 28(9), definitions of *relevant fishing activity* and *relevant quota entitlement*—delete the definitions

30—Substitution of regulation 29

Regulation 29—delete the regulation and substitute:

29—Catch and disposal requirements—King George whiting

- (1) The holder of a licence in respect of the fishery subject to a condition fixing a King George whiting quota entitlement or the registered master of a registered boat used under such a licence must comply with the following provisions in respect of King George whiting taken under the licence:
 - (a) the holder of the licence or the 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 King George whiting taken under the licence as determined by the Minister;
 - (b) the holder of the licence or the 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 the registered master must ensure that King George whiting 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 are each 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.

31—Variation of regulation 30—Catch and disposal requirements—pipi

Regulation 30—delete "Marine Scalefish Fishery" wherever occurring and substitute in each case:

fishery

32—Variation of regulation 31—Catch and disposal requirements—blue crab

Regulation 31—delete "a marine scalefish fishery" wherever occurring and substitute in each case:

the fishery

33—Substitution of regulation 32

Regulation 32—delete the regulation and substitute:

32—Catch and disposal requirements—snapper

- (1) The holder of a licence in respect of the fishery subject to a condition fixing a snapper quota entitlement or the registered master of a registered boat used under such a licence must comply with the following provisions in respect of snapper taken under the licence:
- (a) the holder of the licence or the 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 snapper taken under the licence as determined by the Minister;
 - (b) the holder of the licence or the 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 the registered master must ensure that snapper 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 are each 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.

32A—Catch and disposal requirements—southern calamari

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

- (a) the holder of the licence or the 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 southern calamari taken under the licence as determined by the Minister;
- (b) the holder of the licence or the 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 the registered master must ensure that southern calamari 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 are each 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.

32B—Catch and disposal requirements—southern garfish

- (1) The holder of a licence in respect of the fishery subject to a condition fixing a southern garfish quota entitlement or the registered master of a registered boat used under such a licence must comply with the following provisions in respect of southern garfish taken under the licence:
 - (a) the holder of the licence or the 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 southern garfish taken under the licence as determined by the Minister;
 - (b) the holder of the licence or the 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 the registered master must ensure that southern garfish 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 are each 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.

34—Substitution of regulation 33

Regulation 33—delete the regulation and substitute:

33—King George whiting, pipi, snapper, southern calamari and southern garfish to be delivered or consigned to registered fish processor

- (1) The holder of a licence in respect of the fishery subject to a condition fixing a King George whiting quota entitlement must ensure that all King George whiting 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 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 licence in respect of the fishery subject to a condition fixing a snapper quota entitlement must ensure that all snapper taken under the licence are delivered or consigned to a registered fish processor.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) The holder of a licence in respect of the fishery subject to a condition fixing a southern calamari quota entitlement must ensure that all southern calamari taken under the licence are delivered or consigned to a registered fish processor.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (5) The holder of a licence in respect of the fishery subject to a condition fixing a southern garfish quota entitlement must ensure that all southern garfish taken under the licence are delivered or consigned to a registered fish processor.
Maximum penalty: \$5 000.
Expiation fee: \$315.

35—Revocation of regulation 34

Regulation 34—delete the regulation

36—Variation of regulation 35—Periodic returns

Regulation 35(1)—delete "a marine scalefish fishery" and substitute:
the fishery

37—Variation of regulation 37—Minister's determinations

Regulation 37(6)—delete "or 17" and substitute:
, 17, 17A or 17B

38—Variation of Schedule 1—Aquatic resources prescribed for Marine Scalefish Fishery

- (1) Schedule 1—after the heading to Schedule 1 insert:

Part 1—Aquatic resources prescribed for the purposes of regulation 4(2)(a)

- (2) Schedule 1—after "Oyster (Family Ostreidae)" insert:
Pipi (*Donax* spp)

- (3) Schedule 1—delete "Vongole"
- (4) Schedule 1—delete "Australian Anchovy (*Engraulis australis*)"
- (5) Schedule 1—delete "Maray (*Etrumeus teres*)"
- (6) Schedule 1—delete "Australian Sardine (*Sardinops sagax*)"
- (7) Schedule 1—delete "Blue Sprat (*Spratelloides robustus*)"
- (8) Schedule 1—delete "Sandy Sprat (*Hyperlophus vittatus*)"
- (9) Schedule 1—after "Skate of all species (Class Elasmobranchii)" insert:

Part 2—Aquatic resources prescribed for the purposes of regulation 4(2)(b)

Molluscs

Razorfish (*Pinna bicolor*)

Vongole

Scalefish

Australian Anchovy (*Engraulis australis*)

Maray (*Etrumeus teres*)

Australian Sardine (*Sardinops sagax*)

Blue Sprat (*Spratelloides robustus*)

Sandy Sprat (*Hyperlophus vittatus*)

39—Revocation of Schedule 2

Schedule 2—delete the Schedule

Note—

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

Made by the Governor

with the advice and consent of the Executive Council
on 24 June 2021

No 87 of 2021