

South Australia

Fisheries Management (Abalone Fisheries) (Quota) Amendment Regulations 2022

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 (Abalone Fisheries) (Quota) Amendment Regulations 2022*.

2—Commencement

- (1) Subject to subregulation (2), these regulations come into operation on 1 October 2022.
- (2) Regulations 3 and 5 and Schedule 1 come into operation on 1 January 2023.

Part 2—Amendment of *Fisheries Management (Abalone Fisheries) Regulations 2017*

3—Amendment of regulation 10—Individual catch quota system—Central Zone

- (1) Regulation 10(1)—after the definition of *fishery* insert:

following quota period, in relation to a first quota period and the holder of a licence in respect of the fishery, means the next quota period during which abalone may be taken by the holder of the licence following the first quota period;

- (2) Regulation 10(3)(b), (c) and (d)—delete paragraphs (b), (c) and (d) and substitute:

- (b) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the *first quota period*) (being a quota period that commenced on or after 1 January 2022) is less than the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement in respect of that class of abalone for the following quota period (the *subsequent quota period*) by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the abalone quota entitlement for the first quota period up to—

(i) —

(A) 10% of the quota entitlement for the first quota period; or

(B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the subsequent quota period; or

(ii) if the Minister is satisfied that exceptional circumstances apply—

(A) a percentage that exceeds 10% of the quota entitlement for the first quota period; or

(B) such other greater kilogram amount of abalone meat,

as is determined by the Minister on or before the commencement of the subsequent quota period;

- (c) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the ***first quota period***) (being a quota period that commences on or after 1 January 2023) exceeded the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement in respect of that class of abalone for the following quota period (the ***subsequent quota period***) as follows:
- (i) if the catch exceeded the quota entitlement by—
 - (A) an amount not exceeding 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,
by 1 kilogram of abalone meat for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by—
 - (A) an amount greater than 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,
by 2 kilograms of abalone meat for each kilogram taken in excess of the quota entitlement.
- (3) Regulation 10(3)(f)—delete "or (c)"
- (4) Regulation 10(4)—delete subregulation (4) and substitute:
- (4) For the purposes of—
 - (a) subregulation (3)(b)(i) and (ii); and
 - (b) subregulation (3)(c)(i) and (ii),the following must be disregarded:
 - (c) any increase in the quota entitlement under a licence applying during a first quota period as a result of a variation of the quota entitlement under the licence made under subregulation (3)(aa);
 - (d) any increase in the quota entitlement under a licence applying during a first quota period as a result of—

- (i) a variation of the quota entitlement under the licence previously made under subregulation (3)(b)(i) or (ii); and
 - (ii) in the case of the quota period that ends on 31 December 2022—a variation of the quota entitlement under the licence made under subregulation (3)(d)(i) as in force immediately before the commencement of this paragraph.
- (4a) An application under subregulation (3)(a) may not be made in respect of abalone units allocated to the licence under subregulation (3)(b).

4—Amendment of regulation 11—Individual catch quota system—Southern Zone

- (1) Regulation 11(1), definition of *quota period*—delete the definition and substitute:
- quota period*—a quota period for the fishery is—
- (a) the period commencing on 1 October 2022 and ending on 31 August 2023; or
 - (b) the period of 12 months commencing on 1 September 2023 or on 1 September in any subsequent year;
- (2) Regulation 11(1), definition of *quota period 2022-2023*—delete "30 September 2023" and substitute:
- 31 August 2023

5—Amendment of regulation 12—Individual catch quota system—Western Zone

- (1) Regulation 12(1)—after the definition of *fishery* insert:
- following quota period*, in relation to a first quota period and the holder of a licence in respect of the fishery, means the next quota period during which abalone may be taken by the holder of the licence following the first quota period;
- (2) Regulation 12(3)(b), (c) and (d)—delete paragraphs (b), (c) and (d) and substitute:
- (b) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery during the quota period 2020 fell short of the quota entitlement in respect of that class of abalone and that quota period by an amount exceeding 50 kilograms of abalone meat, the Minister may vary the conditions of the licence so as to increase the quota entitlement in respect of that class of abalone for the quota periods 2021, 2022 and 2023 by up to 1 kilogram of abalone meat for each kilogram above 50 kilograms by which the total catch fell short of the quota entitlement for the quota period 2020;

- (c) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the ***first quota period***) (being a quota period that commenced on or after 1 January 2022) is less than the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement in respect of that class of abalone for the following quota period (the ***subsequent quota period***) by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the abalone quota entitlement for the first quota period up to—
- (i) —
 - (A) 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the subsequent quota period; or
 - (ii) if the Minister is satisfied that exceptional circumstances apply—
 - (A) a percentage that exceeds 10% of the quota entitlement for the first quota period; or
 - (B) such other greater kilogram amount of abalone meat,

as is determined by the Minister on or before the commencement of the subsequent quota period;
- (d) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the ***first quota period***) (being a quota period that commences on or after 1 January 2023) exceeded the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement in respect of that class of abalone for the following quota period (the ***subsequent quota period***) as follows:
- (i) if the catch exceeded the quota entitlement by—
 - (A) an amount not exceeding 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,

by 1 kilogram of abalone meat for each kilogram taken in excess of the quota entitlement; or

- (ii) if the catch exceeded the quota entitlement by—
 - (A) an amount greater than 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,

by 2 kilograms of abalone meat for each kilogram taken in excess of the quota entitlement;

- (3) Regulation 12(3)(f)—delete "or (c)"
- (4) Regulation 12(3a)—delete "subregulation (3)(d)(iii)" wherever occurring and substitute in each case:
 - subregulation (3)(b)
- (5) Regulation 12(4)—delete subregulation (4) and substitute:
 - (4) For the purposes of—
 - (a) subregulation (3)(c)(i) and (ii); and
 - (b) subregulation (3)(d)(i) and (ii),the following must be disregarded:
 - (c) any increase in the quota entitlement under a licence applying during a first quota period as a result of a variation of the quota entitlement under the licence made under subregulation (3)(b);
 - (d) any increase in the quota entitlement under a licence applying during a first quota period as a result of—
 - (i) a variation of the quota entitlement under the licence previously made under subregulation (3)(c)(i) or (ii); and
 - (ii) in the case of the quota period that ends on 31 December 2022—a variation of the quota entitlement under the licence made under subregulation (3)(d)(i) or (iii) as in force immediately before the commencement of this paragraph.
- (4a) An application under subregulation (3)(a) may not be made in respect of abalone units allocated to the licence under subregulation (3)(c).

Schedule 1—Transitional provisions etc

1—Interpretation

In this Schedule—

principal regulations means the *Fisheries Management (Abalone Fisheries) Regulations 2017*;

relevant day means 1 January 2023.

2—Transitional provisions etc

- (1) If the total catch of abalone of a particular class taken by the holder of a licence in respect of the Central Zone Abalone Fishery subject to a condition fixing an abalone quota entitlement during the quota period that commenced on 1 January 2022 exceeded the quota entitlement under the licence in respect of that class of abalone and quota period, then despite the deletion of regulation 10(3)(b) of the principal regulations by regulation 3(2) of these regulations, regulation 10(3)(b), as in force immediately before the relevant day, continues to apply to the licence such that the Minister may vary the conditions of the licence, in accordance with that regulation, in relation to the quota period commencing on 1 January 2023.
- (2) If the total catch of abalone of a particular class taken by the holder of a licence in respect of the Western Zone Abalone Fishery subject to a condition fixing an abalone quota entitlement during the quota period that commenced on 1 January 2022 exceeded the quota entitlement under the licence in respect of that class of abalone and quota period, then despite the deletion of regulation 12(3)(b) of the principal regulations by regulation 5(2) of these regulations, regulation 12(3)(b), as in force immediately before the relevant day, continues to apply to the licence such that the Minister may vary the conditions of the licence, in accordance with that regulation, in relation to the quota period commencing on 1 January 2023.

Editorial note—

As required by section 10AA(2) of the *Legislative Instruments 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 1 September 2022

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