

South Australia

Fisheries Management (Miscellaneous Fishery) (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 (Miscellaneous Fishery) (Quota) Amendment Regulations 2022*.

2—Commencement

These regulations come into operation on 1 July 2022.

Part 2—Amendment of *Fisheries Management (Miscellaneous Fishery) Regulations 2015*

3—Substitution of regulation 9

Regulation 9—delete the regulation and substitute:

9—Individual giant crab catch quota system—Northern Zone

- (1) In this regulation—

giant crab quota entitlement or *quota entitlement*—

- (a) in relation to a licence in respect of the fishery and the Northern Zone, means the maximum number of kilograms of giant crab that may be lawfully taken by the holder of the licence in the Northern Zone during a quota period, being the product of—

- (i) the unit entitlement under that licence in respect of the Northern Zone; and
 - (ii) the unit value for the Northern Zone and that quota period,
subject to any variation applying during that quota period;
- (b) in relation to a licence in respect of the Northern Zone Rock Lobster Fishery—has the same meaning as in regulation 16A of the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

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

unit entitlement—

- (a) in relation to a licence in respect of the fishery and the Northern Zone—means the number of giant crab units for the time being allocated to the licence in respect of the Northern Zone;
- (b) in relation to a licence in respect of the Northern Zone Rock Lobster Fishery—has the same meaning as in regulation 16A of the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

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

- (2) In this regulation, **Northern Zone** and **Northern Zone Rock Lobster Fishery** have the same respective meanings as in the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*.
- (3) The Minister must, on or before the commencement of each quota period, determine the number of kilograms of giant crab that is to be the value of a giant crab unit for the Northern Zone and the quota period.
- (4) The Minister may impose or vary conditions on licences in respect of the fishery or the Northern Zone Rock Lobster Fishery varying giant crab quota entitlements as follows:
 - (a) on joint application made to the Minister by the holders of licences in respect of the fishery subject to conditions 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 a holder of a licence in respect of the fishery subject to a condition fixing a giant crab quota entitlement (the *first licence*) and the holder of a licence in respect of the Northern Zone Rock Lobster Fishery subject to such a condition (the *second licence*)—
 - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of the Northern Zone and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence by a corresponding number of units; or
 - (ii) the conditions of the first licence may be varied so as to increase the unit entitlement under that licence in respect of the Northern Zone and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence by a corresponding number of units;
- (c) if the total catch of giant crab taken by the holder of a licence in respect of the 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 giant crab 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;
- (d) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing a 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 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;

- (e) a variation of a giant crab quota entitlement made under paragraph (c) must be expressed to apply only for the quota period during which the variation is made.
- (5) An application to vary quota 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.

9A—Individual giant crab catch quota system—Southern Zone

- (1) In this regulation—
 - giant crab quota entitlement* or *quota entitlement***—
 - (a) in relation to a licence in respect of the fishery and the Southern Zone, means the maximum number of kilograms of giant crab that may be lawfully taken by the holder of the licence in the Southern Zone during a quota period, being the product of—
 - (i) the unit entitlement under that licence in respect of the Southern Zone; and
 - (ii) the unit value for the Southern Zone and that quota period,subject to any variation applying during that quota period;
 - (b) in relation to a licence in respect of the Southern Zone Rock Lobster Fishery—has the same meaning as in regulation 17 of the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

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

unit entitlement—

- (a) in relation to a licence in respect of the fishery and the Southern Zone—means the number of giant crab units for the time being allocated to the licence in respect of that zone;
- (b) in relation to a licence in respect of the Southern Zone Rock Lobster Fishery—has the same meaning as in regulation 17 of the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

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

- (2) In this regulation, **Southern Zone** and **Southern Zone Rock Lobster Fishery** have the same respective meanings as in the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*.
- (3) The Minister must, on or before the commencement of each quota period, determine the number of kilograms of giant crab that is to be the value of a giant crab unit for the Southern Zone and the quota period.
- (4) The Minister may impose or vary conditions on licences in respect of the fishery or the Southern Zone Rock Lobster Fishery varying giant crab quota entitlements as follows:
 - (a) on joint application made to the Minister by the holders of licences in respect of the fishery subject to conditions 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 a holder of a licence in respect of the fishery subject to a condition fixing a giant crab quota entitlement (the **first licence**) and the holder of a licence in respect of the Southern Zone Rock Lobster Fishery subject to such a condition (the **second licence**)—
 - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of the Southern Zone and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence by a corresponding number of units; or
 - (ii) the conditions of the first licence may be varied so as to increase the unit entitlement under that licence in respect of the Southern Zone and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence by a corresponding number of units;
 - (c) if the total catch of giant crab taken by the holder of a licence in respect of the 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 giant crab 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;
 - (d) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing a 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 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;
 - (e) a variation of a giant crab quota entitlement made under paragraph (c) must be expressed to apply only for the quota period during which the variation is made.
- (5) An application to vary quota 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.

4—Amendment of regulation 13—Minister's determinations

Regulation 13(6)—delete "regulation 9" and substitute:
regulations 9 or 9A

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's Deputy

with the advice and consent of the Executive Council
on 16 June 2022

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