

South Australia

Fisheries Management (Rock Lobster Fisheries) (Quota) (No 2) 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 (Rock Lobster Fisheries) (Quota) (No 2) Amendment Regulations 2022*.

2—Commencement

- (1) Subject to this regulation, these regulations come into operation on 1 September 2022.
- (2) Regulation 6 comes into operation on 1 October 2022.
- (3) Regulations 3 and 5 come into operation on 1 November 2022.

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

3—Amendment of regulation 15—Individual rock lobster catch quota system—Northern Zone

- (1) Regulation 15(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 rock lobster may be taken by the holder of the licence following the first quota period;

- (2) Regulation 15(3)—delete paragraphs (b) and (c) and substitute:

- (b) if the total catch of rock lobster taken by the holder of a licence in respect of the fishery subject to a condition fixing a rock lobster quota entitlement in respect of a particular Northern Zone Region during a quota period (the *first quota period*) (being a quota period that commenced on or after 1 November 2021) is less than 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 increase the rock lobster quota entitlement in respect of that Region for the following quota period (the *subsequent quota period*) by 1 kilogram of rock lobster for each kilogram by which the catch fell short of the rock lobster 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 catch, 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 catch,

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

- (c) if the total catch of rock lobster taken by the holder of a licence in respect of the fishery subject to a condition fixing a rock lobster quota entitlement in respect of a particular Northern Zone Region during a quota period (the *first quota period*) (being a quota period that commences on or after 1 November 2022) exceeded the rock lobster quota entitlement under the licence for that Region and that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement in respect of that Region 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
by 1 kilogram of rock lobster 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
by 2 kilograms of rock lobster for each kilogram taken in excess of the quota entitlement.
- (3) Regulation 15(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)(ab) or (ac); or
 - (d) 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 previously made under subregulation (3)(b)(i) or (ii).

- (4a) A variation of a quota entitlement under subregulation (3)(b) or (c) must be expressed to apply only for the quota period during which the variation is made.
- (4b) An application under subregulation (3)(a) may not be made in respect of rock lobster units allocated to the licence under subregulation (3)(b).

4—Amendment of regulation 16—Individual rock lobster catch quota system—Southern Zone

- (1) Regulation 16(1)—before the definition of *quota period* 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 rock lobster may be taken by the holder of the licence following the first quota period;
- (2) Regulation 16(1), definition of *quota period 2019-2020*—delete the definition
- (3) Regulation 16(3)(ab)—delete paragraph (ab)
- (4) Regulation 16(3)(b) and (c)—delete paragraphs (b) and (c) and substitute:
 - (b) if the total catch of rock lobster taken by the holder of a licence in respect of the fishery subject to a condition fixing a rock lobster quota entitlement during a quota period (the *first quota period*) (being a quota period that commenced on or after 15 September 2021) is less than the rock lobster quota entitlement under the licence for that quota period, the Minister may vary the conditions of the licence so as to increase the rock lobster quota entitlement for the following quota period (the *subsequent quota period*) by 1 kilogram of rock lobster for each kilogram by which the catch fell short of the rock lobster 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 catch, 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 catch, as is determined by the Minister on or before the commencement of the subsequent quota period;

- (c) if the total catch of rock lobster taken by the holder of a licence in respect of the fishery subject to a condition fixing a rock lobster quota entitlement during a quota period (the *first quota period*) (being a quota period that commences on or after 1 September 2022) exceeded the rock lobster quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
by 1 kilogram of rock lobster 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
by 2 kilograms of rock lobster for each kilogram taken in excess of the quota entitlement.
- (5) Regulation 16—after subregulation (3) insert:
- (3a) 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)(ac); or
 - (d) 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 previously made under subregulation (3)(b)(i) or (ii).

- (3b) A variation of a quota entitlement under subregulation (3)(b) or (c) must be expressed to apply only for the quota period during which the variation is made.
- (3c) An application under subregulation (3)(a) may not be made in respect of rock lobster units allocated to the licence under subregulation (3)(b).

5—Amendment of regulation 16A—Individual giant crab catch quota system—Northern Zone

- (1) Regulation 16A(1)—before the definition of *giant crab quota entitlement* insert:

following quota period, in relation to a first quota period and the holder of a licence in respect of the Northern Zone Rock Lobster Fishery, means the next quota period during which giant crab may be taken by the holder of the licence following the first quota period;
- (2) Regulation 16A(3)(c), (d) and (e)—delete paragraphs (c), (d) and (e) and substitute:
 - (c) if the total catch of giant crab taken 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 during a quota period (the *first quota period*) (being a quota period that commenced on or after 1 November 2021) is less than the giant crab quota entitlement under the licence for that quota period, the Minister may vary the conditions of the licence so as to increase the giant crab quota entitlement for the following quota period (the *subsequent quota period*) by 1 kilogram of giant crab for each kilogram by which the catch fell short of the giant crab 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 catch, 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 catch, as is determined by the Minister on or before the commencement of the subsequent quota period;

- (d) if the total catch of giant crab taken 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 during a quota period (the *first quota period*) (being a quota period that commences on or after 1 November 2022) exceeded the giant crab quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
by 1 kilogram of giant crab 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
by 2 kilograms of giant crab for each kilogram taken in excess of the quota entitlement.
- (3) Regulation 16A—after subregulation (3) insert:
- (3a) For the purposes of—
 - (a) subregulation (3)(c)(i) and (ii); and
 - (b) subregulation (3)(d)(i) and (ii),
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 previously made under subregulation (3)(c)(i) or (ii) must be disregarded.
 - (3b) A variation of a quota entitlement under subregulation (3)(c) or (d) must be expressed to apply only for the quota period during which the variation is made.
 - (3c) An application under subregulation (3)(a) or (b)(i) may not be made in respect of giant crab units allocated to the licence under subregulation (3)(c).

6—Amendment of regulation 17—Individual giant crab catch quota system—Southern Zone

- (1) Regulation 17(1)—before the definition of *giant crab quota entitlement* insert:
- following quota period*, in relation to a first quota period and the holder of a licence in respect of the Southern Zone Rock Lobster Fishery, means the next quota period during which giant crab may be taken by the holder of the licence following the first quota period;
- (2) Regulation 17(3)(c), (d) and (e)—delete paragraphs (c), (d) and (e) and substitute:
- (c) if the total catch of giant crab taken 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 during a quota period (the *first quota period*) (being a quota period that commenced on or after 1 October 2021) is less than the giant crab quota entitlement under the licence for that quota period, the Minister may vary the conditions of the licence so as to increase the giant crab quota entitlement for the following quota period (the *subsequent quota period*) by 1 kilogram of giant crab for each kilogram by which the catch fell short of the giant crab 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 catch, 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 catch, as is determined by the Minister on or before the commencement of the subsequent quota period;
- (d) if the total catch of giant crab taken 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 during a quota period (the *first quota period*) (being a quota period that commences on or after 1 October 2022) exceeded the giant crab quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
 - by 1 kilogram of giant crab 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 catch, as is determined by the Minister on or before the commencement of the first quota period,
 - by 2 kilograms of giant crab for each kilogram taken in excess of the quota entitlement.
- (3) Regulation 17—after subregulation (3) insert:
 - (3a) For the purposes of—
 - (a) subregulation (3)(c)(i) and (ii); and
 - (b) subregulation (3)(d)(i) and (ii),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 previously made under subregulation (3)(c)(i) or (ii) must be disregarded.
 - (3b) A variation of a quota entitlement under subregulation (3)(c) or (d) must be expressed to apply only for the quota period during which the variation is made.
 - (3c) An application under subregulation (3)(a) or (b)(i) may not be made in respect of giant crab units allocated to the licence under subregulation (3)(c).

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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