

South Australia

Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991

under the *Fisheries Act 1982*

Contents

- 1 Short title
- 2 Commencement
- 3 Revocation
- 4 Interpretation
- 4A Conversion of whole weight to meat weight
- 5 Constitution of Fisheries
- 6 No further licences are to be granted
- 7 Expiry of licences
- 8 Renewal of licences
- 8A Refund on surrender of licence
- 9 Transfer of licence
- 10 Registration of boats
- 10A Only one registered boat to be used at any one time
- 10B Registered boat not to be transported or towed to fishing location
- 11 Registration as master
- 11A Only one registered master to be engaged in fishing activities
- 12 Revocation of registration
- 13 Individual catch quota system—Western Zone
- 13A Individual catch quota system—Central Zone
- 13B Individual catch quota system—Southern Zone
- 13C Catch and disposal records
- 14 Furnishing of returns
- 15 Copies of returns must be made

Schedule 1—Fees

Schedule 2—Information required in application for consent to licence transfer

Schedule 3—Area S

- 1 Area 1
- 2 Area 2
- 3 Area 3
- 4 Area 4

Legislative history

Appendix—Divisional penalties and expiation fees

1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991*.

2—Commencement

These regulations will come into operation on 27 June 1991.

3—Revocation

The following regulations are revoked:

- (a) the *Scheme of Management (Western Zone Abalone Fishery) Regulations 1984* (see *Gazette 14.6.1984 p1579*), as varied; and
- (b) the *Scheme of Management (Central Zone Abalone Fishery) Regulations 1984* (see *Gazette 14.6.1984 p1588*), as varied; and
- (c) the *Scheme of Management (Southern Zone Abalone Fishery) Regulations 1984* (see *Gazette 14.6.1984 p1597*), as varied.

4—Interpretation

- (1) In these regulations, unless the contrary intention appears—

abalone means abalone (*Haliotis* spp.) of all species;

abalone fishery means—

- (a) the Western Zone Abalone Fishery; or
- (b) the Central Zone Abalone Fishery; or
- (c) the Southern Zone Abalone Fishery,

constituted by these regulations;

the Act means the *Fisheries Act 1982*;

Central Zone means the coastal waters between the meridians of longitude 136°30' east and 139° east but does not include the waters of the Coorong or any other waters inside the Murray Mouth;

coastal waters means the waters of the ocean and all bays, gulfs, straits, passages, inlets and estuaries of the State that are subject to the tidal influences of the sea;

conversion value means the number determined by the Director under these regulations to be the conversion value for the purpose of calculating the weight of abalone meat before removal from the shell;

director, in relation to a body corporate, has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

licence period means the period of 12 months commencing on 1 July in any year;

proprietary company has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

revoked regulations means the regulations revoked by regulation 3;

SARDI means the South Australian Research and Development Institute;

Southern Zone means the coastal waters east of the meridian of longitude 139° east but does not include the waters of the Coorong or any other waters inside the Murray Mouth;

Western Zone means the coastal waters west of the meridian of longitude 136°30' east.

- (2) For the purposes of these regulations, a person is an associate of another if—
- (a) they are partners; or
 - (b) they are parties to a contract, arrangement or understanding, the purpose of effect of which is that one will act at the direction of, or in accordance with the wishes or instructions of, another when, for the purposes of trade or business, he or she engages or refrains from engaging in a fishing activity of a class that constitutes a fishery; or
 - (c) one is a body corporate and the other is a director or secretary of, or the holder of a share in, that body corporate; or
 - (d) they are bodies corporate that are related to each other for the purposes of the *Corporations Act 2001* of the Commonwealth; or
 - (e) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
 - (f) a chain of relationships can be traced between them under one or more of the above paragraphs.
- (3) For the purposes of these regulations—
- (b) a person is the holder of a share in a body corporate if—
 - (i) he or she is beneficially entitled to that share; or
 - (ii) he or she has a relevant interest in that share; and
 - (c) a person has a relevant interest in a share in a body corporate if the person has a relevant interest in a share for the purposes of the *Corporations Act 2001* of the Commonwealth.
- (4) In these regulations, a reference to the taking of abalone includes a reference to an act preparatory to, or involved in the taking of abalone.
- (5) In these regulations, a reference to a class of abalone is a reference to a class of abalone determined by the Director by reference to all or any of the following factors:
- (a) a species of abalone; or
 - (b) a description of abalone by reference to sex, size, weight or any other characteristic.
- (6) In these regulations—
- (a) **meat**, in relation to an abalone, means all the muscular foot of the abalone from which the viscera have been detached by the usual shucking procedure;
 - (b) **whole**, in relation to an abalone, means the whole of the abalone including the meat, viscera and shell.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

4A—Conversion of whole weight to meat weight

For the purposes of these regulations, the weight of abalone meat before removal from the shell is to be determined by multiplying the number of kilograms in the weight of the whole abalone by the conversion value determined by the Director for the time being.

5—Constitution of Fisheries

- (1) The following fisheries are constituted:
 - (a) the Western Zone Abalone Fishery; and
 - (b) the Central Zone Abalone Fishery; and
 - (c) the Southern Zone Abalone Fishery.
- (2) The Western Zone Abalone Fishery consists of the taking of abalone in the waters of the Western Zone.
- (3) The Central Zone Abalone Fishery consists of the taking of abalone in the waters of the Central Zone.
- (4) The Southern Zone Abalone Fishery consists of the taking of abalone in the waters of the Southern Zone.

6—No further licences are to be granted

- (1) The licences in respect of the Western Zone Abalone Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Western Zone Abalone Fishery subject to the provisions of the Act and these regulations, and no other licence may be granted in respect of the fishery.
- (2) The licences in respect of the Central Zone Abalone Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Central Zone Abalone Fishery subject to the provisions of the Act and these regulations, and no other licence may be granted in respect of the fishery.
- (3) The licences in respect of the Southern Zone Abalone Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Southern Zone Abalone Fishery subject to the provisions of the Act and these regulations, and no other licence may be granted in respect of the fishery.

7—Expiry of licences

A licence in respect of an abalone fishery expires on 30 June following the date of its last renewal.

8—Renewal of licences

- (1) A licence in respect of an abalone fishery may be renewed by the Director on application made before the expiry of the licence or before the end of the licence period following the expiry of the licence.

- (2) An application to renew a licence in respect of an abalone fishery must—
 - (a) be made by the holder of the licence or, if the licence has expired, by the person who last held the licence; and
 - (b) be made in writing in a form approved by the Director and signed by the applicant.
- (3) Where an application to renew a licence is made before the expiry of the licence, the renewal of the licence takes effect from the expiry of the licence.
- (4) Where an application to renew a licence is made after the expiry of the licence, the renewal of the licence takes effect from the date on which the application is granted.
- (5) The Director may not renew a licence unless the applicant has paid—
 - (a) —
 - (i) the renewal fee specified in Schedule 1 less \$90; or
 - (ii) the first instalment of the renewal fee specified in Schedule 1, in accordance with subregulation (6); and
 - (b) the amount of any previous renewal fee remaining payable in respect of the licence, together with any additional amount payable for late payment of an instalment of the renewal fee.
- (6) Where an application to renew a licence is made before or within three months after the expiry of the licence, the renewal fee may be paid by four instalments of 25 per cent payable on or before the date of renewal of the licence and 1 October, 1 January and 1 April following the date of renewal.
- (7) If an instalment of a renewal fee is not paid in full within 21 days after the due date for payment, an additional amount equal to 10 per cent of the amount of the instalment is payable.
- (8) Where—
 - (a) an instalment of a renewal fee for a licence is not paid in full on or before the due date; or
 - (b) an additional amount is required to be paid for late payment of an instalment of a renewal fee,

the amount unpaid may be recovered from the holder of the licence or the person who last held the licence as a debt due to the Crown.

8A—Refund on surrender of licence

Where a licence in respect of an abalone fishery is surrendered, the Director must, on application by the former licensee, refund an amount that bears to the renewal fee last paid in respect of the licence the same proportion as the number of complete months from the date of surrender to the day on which the following licence period commences bears to the number of months in the licence period during which the licence was surrendered.

9—Transfer of licence

- (1) A licence in respect of an abalone fishery may be transferred with the consent of the Director.

- (2) An application for consent to the transfer of a licence must be a joint application made by the holder of the licence and the transferee.
- (3) The application—
 - (a) must be made in writing in a form approved by the Director; and
 - (b) must contain the information specified in Schedule 2; and
 - (c) must contain a nomination by the holder of the licence of the person to whom the licence is to be transferred; and
 - (d) must be verified by statutory declaration.
- (4) The application must be lodged with the Director together with—
 - (a) the licence to be transferred; and
 - (b) a form of return as required by these regulations completed by the holder of the licence up to the date of application; and
 - (d) the application fee specified in Schedule 1.
- (5) Before consenting to the transfer of a licence, the Director must be satisfied as to the following matters:
 - (a) that the licence to be transferred has not been suspended;
 - (b) that no proceedings alleging an offence under the Act are pending or likely to be commenced in the State against the holder of the licence;
 - (c) that the transfer is to one person only;
 - (d) that the transferee is—
 - (i) a natural person of at least 15 years of age; or
 - (ii) a proprietary company;
 - (e) that no conviction for an offence involving a breach of any legislation relating to fishing has, within the period of three years preceding the date of the application, been recorded in the State or elsewhere in Australia against the transferee, or, where the transferee is a company, against a director of the company;
 - (f) that no proceedings alleging an offence involving a breach of any legislation relating to fishing are pending or likely to be commenced in the State or elsewhere in Australia against the transferee, or, where the transferee is a company, against a director of the company;
 - (g) that the transferee does not already hold a licence in respect of an abalone fishery or any other fishery;
 - (h) that the transferee is not an associate of a person who holds such a licence;
 - (i) if any boat registered by endorsement of the licence is the subject of, is registered by endorsement of, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under the Commonwealth Act or the laws of another State or Territory—

- (i) that the entitlement is either to be transferred together with the fishery licence to the transferee or to be surrendered on or before the transfer of the fishery licence; or
- (ii) that—
 - (A) the transfer of the fishery licence separately from the entitlement is not likely to result in fishing activities that endanger or overexploit fishery resources; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

10—Registration of boats

- (1) An application to register a boat to be used in an abalone fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.
- (2) Before granting registration of the boat the Director must be satisfied that—
 - (a) the applicant is the holder of a licence in respect of the fishery; and
 - (b) no more than one other boat is registered by endorsement of the applicant's licence in respect of the fishery.

10A—Only one registered boat to be used at any one time

Where two boats are registered by endorsement of a licence in respect of an abalone fishery, the holder of the licence must not use both boats, or cause, suffer or permit both boats to be used, at the same time for taking fish pursuant to the licence.

Penalty: Division 6 fine.

10B—Registered boat not to be transported or towed to fishing location

The holder of a licence in respect of an abalone fishery must not cause, suffer or permit a registered boat to be transported or towed by another boat to a place at which the registered boat is to be used for the purpose of taking fish pursuant to the licence.

Penalty: Division 6 fine.

11—Registration as master

An application for registration of a person as the master of a boat must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.

11A—Only one registered master to be engaged in fishing activities

Where—

- (a) two boats are registered by endorsement of a licence in respect of an abalone fishery; and
- (b) different persons are registered by endorsement of the licence as the masters of those boats,

the holder of the licence must not cause, suffer or permit both persons to engage in fishing activities pursuant to the licence on the same day.

Penalty: Division 6 fine.

12—Revocation of registration

- (1) The Director may, on application by the holder of a licence in respect of an abalone fishery, revoke any registration effected by endorsement of the licence.
- (2) An application for revocation of a registration must be made in writing in a form approved by the Director and be accompanied by the licence on which the registration is endorsed.

13—Individual catch quota system—Western Zone

- (1) In this regulation—

abalone quota—

- (a) in relation to a licence in respect of the fishery, region A and a class of abalone—means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence in that region during a prescribed period, being the product of—
 - (i) the unit entitlement of the licence in respect of that region and class of abalone; and
 - (ii) the unit value for that region, class of abalone and prescribed period, subject to any variation of the quota of the licence in respect of that region and class of abalone applying during that prescribed period;
- (b) in relation to a licence in respect of the fishery and region B—means the maximum number of kilograms of meat of abalone that may be lawfully taken by the holder of the licence in that region during a prescribed period, being the product of—
 - (i) the unit entitlement of the licence in respect of that region; and
 - (ii) the unit value for that region and prescribed period, subject to any variation of the quota of the licence in respect of that region applying during that prescribed period;

fishery means the Western Zone Abalone Fishery;

prescribed period means a calendar year;

prescribed region means region A or region B;

region A means the waters in the Western Zone south and east of a line drawn due south through Point Brown position latitude 32° 32.6'S, longitude 133° 50.8'E;

region B means the waters in the Western Zone north and west of a line drawn due south through Point Brown position latitude 32° 32.6'S, longitude 133° 50.8'E;

unit entitlement—

- (a) in relation to a licence in respect of the fishery, region A and a class of abalone—means the number of abalone units for the time being allocated to the licence in respect of that region and class of abalone;

- (b) in relation to a licence in respect of the fishery and region B—means the number of abalone units for the time being allocated to the licence in respect of that region;

unit value—

- (a) in relation to region A—means the number of kilograms of abalone meat determined by the Director to be the value of an abalone unit for that region, a class of abalone and a prescribed period; or
 - (b) in relation to region B—means the number of kilograms of abalone meat determined by the Director to be the value of an abalone unit for that region and a prescribed period.
- (2) The Director may impose or vary conditions on licences in respect of the fishery fixing abalone quotas as follows:
- (a) all licences in respect of the fishery must be allocated—
 - (i) the same number of abalone units in respect of a class of abalone and region A (but the number of units may vary as between different classes of abalone); and
 - (ii) the same number of abalone units in respect of region B;
 - (b) the Director must, on the commencement of each prescribed period—
 - (i) determine the number of kilograms of abalone meat that is to be the value of an abalone unit for region A, a class of abalone and the prescribed period;
 - (ii) determine the number of kilograms of abalone meat that is to be the value of an abalone unit for region B and the prescribed period;
 - (iii) determine the conversion value for a prescribed region and a class of abalone;
 - (c) the Director may, from time to time, vary the conversion value for a prescribed region and a class of abalone;
 - (d) on application made to the Director by the holders of any two licences in respect of the fishery endorsed with conditions fixing abalone quotas on the licences in respect of region A and the same class of abalone, the conditions of the licences may be varied so as to increase the unit entitlement of one of the licences in respect of that region and class of abalone and decrease the unit entitlement of the other licence in respect of that region and class of abalone by a corresponding number of units;
 - (e) on application made to the Director by the holders of any two licences in respect of the fishery endorsed with conditions fixing abalone quotas on the licences in respect of region B, the conditions of the licences may be varied so as to increase the unit entitlement of one of the licences in respect of that region and decrease the unit entitlement of the other licence in respect of that region by a corresponding number of units;

- (f) the Director may, if the total catch of abalone of a particular class taken pursuant to a licence in region A during a prescribed period exceeded the abalone quota of the licence in respect of that region, class of abalone and prescribed period, vary the conditions of the licence so as to decrease the quota in respect of that region and class of abalone—
 - (i) where the catch exceeded the quota by not more than 10 kilograms of abalone meat—by one kilogram for each kilogram taken in excess of the quota;
 - (ii) where the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by two kilograms for each kilogram taken in excess of the quota;
- (g) the Director may, if the total abalone catch taken pursuant to a licence in region B during a prescribed period exceeded the abalone quota of the licence in respect of that region and prescribed period, vary the conditions of the licence so as to decrease the abalone quota in respect of that region—
 - (i) where the catch exceeded the quota by not more than 10 kilograms of abalone meat—by one kilogram for each kilogram taken in excess of the quota;
 - (ii) where the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by two kilograms for each kilogram taken in excess of the quota;
- (h) the Director may, if—
 - (i) the holder of a licence in respect of the fishery has assisted in the carrying out of research work under the Act in relation to the fishery; and
 - (ii) the Director considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,vary the conditions of the licence so as to increase the quota of the licence in respect of a class of abalone;
 - (i) any variation of—
 - (i) a unit entitlement made under paragraph (d) or (e); or
 - (ii) an abalone quota made under paragraph (f), (g) or (h),must be expressed to apply only for the prescribed period during which the variation is made;
 - (j) unit entitlements and abalone quotas must not be varied except as provided by this regulation.
- (3) An application under subregulation (2)(d) or (e) must be made in a manner and form approved by the Director.
- (4) If—
 - (a) a court convicts the holder of a licence in respect of the fishery of an offence of contravening a condition of the licence imposing an abalone quota on the licence; and

- (b) the conduct constituting the offence involved the taking of more than 50 kilograms of abalone meat—
 - (i) in excess of the quota of the licence in respect of region A and a class of abalone; or
 - (ii) in excess of the quota of the licence in respect of region B,

the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the abalone quota of the licence in respect of that region and, if the quota relates to a class of abalone, in respect of that class, for three prescribed periods following the conviction by one kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.

13A—Individual catch quota system—Central Zone

- (1) In this regulation—

abalone quota, in relation to a licence in respect of the fishery and a class of abalone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence during a prescribed period, being the product of—

- (a) the unit entitlement of the licence in respect of that class of abalone; and
- (b) the unit value for the fishery, that class of abalone and that prescribed period,

subject to any variation of the quota of the licence in respect of that class of abalone applying during that prescribed period;

fishery means the Central Zone Abalone Fishery;

prescribed period means a calendar year;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone;

unit value means the number of kilograms of abalone meat determined by the Director to be the value of an abalone unit for the fishery, a class of abalone and a prescribed period.

- (2) The Director may impose or vary conditions on licences in respect of the fishery fixing abalone quotas as follows:
 - (a) all licences in respect of the fishery must be allocated the same number of abalone units in respect of the same class of abalone (but the number of units may vary as between different classes of abalone);
 - (b) the Director must, on the commencement of each prescribed period—
 - (i) determine the number of kilograms of abalone meat that is to be the value of an abalone unit for the fishery, a class of abalone and the prescribed period; and
 - (ii) determine the conversion value for the fishery and a class of abalone;
 - (ba) the Director may, from time to time, vary the conversion value for the fishery and a class of abalone;

- (c) the conditions of any two licences in respect of the fishery may, on application made to the Director by the holders of those licences in a manner and form approved by the Director, be varied so as to increase the unit entitlement of one of the licences in respect of a particular class of abalone and decrease the unit entitlement of the other licence in respect of that class of abalone by a corresponding number of units;
 - (d) the Director may, if the total catch of abalone of a particular class of abalone taken pursuant to a licence during a prescribed period exceeded the abalone quota of the licence in respect of that class of abalone and prescribed period, vary the conditions of the licence so as to decrease the quota in respect of that class of abalone—
 - (i) where the catch exceeded the quota by not more than 10 kilograms of meat of abalone—by one kilogram for each kilogram in excess of the quota; or
 - (ii) where the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of meat of abalone—by two kilograms for each kilogram in excess of the quota;
 - (e) the Director may, if—
 - (i) the holder of a licence in respect of the fishery has assisted in the carrying out of research work under the Act in relation to the fishery; and
 - (ii) the Director considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,vary the conditions of the licence so as to increase the quota of the licence in respect of a class of abalone;
 - (f) any variation of—
 - (i) a unit entitlement made under paragraph (c); or
 - (ii) an abalone quota made under paragraph (d) or (e),must be expressed to apply only for the prescribed period during which the variation is made;
 - (g) unit entitlements and abalone quotas must not be varied except as provided by this regulation.
- (3) If—
- (a) a court convicts the holder of a licence in respect of the fishery of an offence of contravening a condition of the licence imposing an abalone quota on the licence; and
 - (b) the conduct constituting the offence involved the taking of more than 50 kilograms of abalone meat in excess of the quota,

the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the abalone quota of the licence in respect of the class of abalone that was taken in excess of the quota for three prescribed periods following the conviction by one kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.

13B—Individual catch quota system—Southern Zone

(1) In this regulation—

abalone quota, in relation to a licence in respect of the fishery, a class of abalone and a fishing zone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence in that fishing zone during a prescribed period, being the product of—

(a) the unit entitlement of the licence in respect of that class of abalone and fishing zone; and

(b) the unit value for that class of abalone, fishing zone and prescribed period, subject to any variation of the quota of the licence in respect of that class of abalone and fishing zone applying during that prescribed period;

Area S means the area comprised of the four areas defined in Schedule 3;

fishery means the Southern Zone Abalone Fishery;

fishing zone means—

(a) the Southern Zone; or

(b) Area S; or

(c) any one, two or three of the areas comprising Area S; or

(d) the waters of the Southern Zone outside Area S;

prescribed period means the period of 12 months commencing on 1 September in any year;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone and a fishing zone;

unit value means the number of kilograms of abalone meat determined by the Director to be the value of an abalone unit for a fishing zone, a class of abalone and a prescribed period.

(2) The Director may impose or vary conditions on licences in respect of the fishery fixing abalone quotas as follows:

(a) all licences in respect of the fishery must be allocated the same number of abalone units in respect of the same class of abalone and fishing zone (but the number of units may vary as between different classes of abalone and fishing zones);

(b) the Director must, on the commencement of each prescribed period—

(i) determine the number of kilograms of abalone meat that is to be the value of an abalone unit for a fishing zone, a class of abalone and the prescribed period; and

- (ii) determine the conversion value for a fishing zone and a class of abalone;
 - (c) the Director may, from time to time, vary the conversion value for a fishing zone and a class of abalone;
 - (d) the conditions of any two licences in respect of the fishery may, on application made to the Director by the holders of those licences in a manner and form approved by the Director, be varied so as to increase the unit entitlement of one of the licences in respect of a particular class of abalone and fishing zone and decrease the unit entitlement of the other licence in respect of that class of abalone and fishing zone by a corresponding number of units;
 - (e) the Director may, if the total catch of abalone of a particular class of abalone taken pursuant to a licence in a fishing zone during a prescribed period exceeded the abalone quota of the licence in respect of that class of abalone, fishing zone and prescribed period, vary the conditions of the licence so as to decrease the quota in respect of that class of abalone and fishing zone—
 - (i) where the catch exceeded the quota by not more than 10 kilograms of abalone meat—by one kilogram for each kilogram in excess of the quota; or
 - (ii) where the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by two kilograms for each kilogram in excess of the quota;
 - (f) the Director may, if—
 - (i) the holder of a licence in respect of the fishery has assisted in the carrying out of research work under the Act in relation to the fishery; and
 - (ii) the Director considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,vary the conditions of the licence so as to increase the quota of the licence in respect of a class of abalone;
 - (g) any variation of—
 - (i) a unit entitlement made under paragraph (d); or
 - (ii) an abalone quota made under paragraph (e) or (f),must be expressed to apply only for the prescribed period during which the variation is made;
 - (h) unit entitlements and abalone quotas must not be varied except as provided by this regulation.
- (3) If—
 - (a) a court convicts the holder of a licence in respect of the fishery of an offence of contravening a condition of the licence imposing an abalone quota on the licence; and

- (b) the conduct constituting the offence involved the taking of more than 50 kilograms of abalone meat in excess of the quota,

the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the abalone quota of the licence in respect of the class of abalone that was taken in excess of the quota for three prescribed periods following the conviction by one kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.

- (4) The holder of a licence in respect of the fishery must not, on any one day, take abalone pursuant to the licence, or cause, suffer or permit abalone to be taken pursuant to the licence—
- (a) from more than one of the four areas that comprise Area S; or
- (b) from more than one of the following fishing zones:
- (i) Area S;
- (ii) the waters of the Southern Zone outside Area S.

Penalty: Division 6 fine.

13C—Catch and disposal records

- (1) In this regulation—

CDR book means a book issued by the Department of Primary Industries and Resources containing blank forms CDR1;

form CDR1 means the document produced by the Department of Primary Industries and Resources entitled *CDR1—Department of Primary Industries (Fisheries) Abalone Catch and Disposal Record*.

- (2) The holder of a licence in respect of an abalone fishery or registered master of a boat from which abalone is taken pursuant to such a licence must comply with the following provisions:
- (a) he or she must complete Part A of a form CDR1 in triplicate in respect of abalone taken pursuant to the licence using a blue or black ballpoint pen—
- (i) if the abalone is landed on the day on which it is taken—
- (A) immediately after the abalone is landed and within 50 metres of the place of landing; or
- (B) if the abalone is to be delivered to the registered premises of a registered fish processor within 50 metres of the place of landing—before the abalone is delivered to the premises; or
- (ii) in any other case—before the end of the day on which the abalone is taken;
- (b) he or she must cause the abalone to which the completed Part A of that form relates to be transported to the registered premises of the registered fish processor specified on the form, together with the 3 copies of the completed form;
- (c) he or she must deliver a completed CDR book to the Director within 14 days of its completion.

- (3) If a provision of subregulation (2) is not complied with, the holder of the licence is guilty of an offence.

Penalty: Division 6 fine.

14—Furnishing of returns

- (1) The holder of a licence in respect of an abalone fishery must—
- (a) fill out a return, in a form determined by the Minister, in respect of each calendar month during the currency of the licence; and
 - (b) include in the return such information as the Chief Executive Officer of SARDI, with the approval of the Minister, requires; and
 - (c) date and sign the return and certify that the information contained in the return is complete and accurate, and post or deliver the return to the office of the Chief Executive Officer of SARDI within 15 days of the end of the month to which it relates.

Penalty: Division 6 fine.

- (2) Where the holder of a licence in respect of an abalone fishery takes no abalone during a particular calendar month, he or she is required by subregulation (1) to furnish a return in respect of that period indicating that no abalone were taken.
- (3) Where an abalone fishery has been closed for a whole calendar month, the holder of a licence need not furnish a return for that month.

15—Copies of returns must be made

The holder of a licence in respect of an abalone fishery must—

- (a) make a copy of each return that he or she fills out pursuant to these regulations before the return is sent or delivered to the Chief Executive Officer of SARDI; and
- (b) retain the copy for the period of one year from the last day of the month to which the return relates.

Penalty: Division 6 fine.

Schedule 1—Fees

1 The following fees are payable under the Act and these regulations:

- (a) on application for the renewal of a licence—
 - (i) in respect of the Western Zone Abalone Fishery \$58 695
 - (ii) in respect of the Central Zone Abalone Fishery \$64 859
 - (iii) in respect of the Southern Zone Abalone Fishery \$59 827
- (b) on application for the transfer of a licence in respect of any abalone fishery \$300
- (c) on application under regulation 13(2)(c) by the holder of a licence in respect of the fishery to vary a condition of the licence so as to decrease the unit entitlement of the licence in respect of a species of abalone and increase the unit entitlement of one or more other licences—\$100 plus a fee of an amount obtained by multiplying \$20 by the number of licences the unit entitlement of which is to be increased.

Schedule 2—Information required in application for consent to licence transfer

The following information is to be contained in an application for consent to transfer a licence:

- 1 Full name of the holder of the licence.
- 2 The licence number.
- 3 Full name, business address and telephone number of the transferee and, where the transferee is a natural person, the transferee's date of birth and residential address.
- 4 The price to be paid for the transfer of—
 - (a) the licence; and
 - (b) any boat, equipment, registration or other matter or thing being transferred as part of the transaction.
- 5 Details of any boat to be used by the transferee to take fish including—
 - (a) its length (where surveyed—surveyed length);
 - (b) the number of its current survey certificate;
 - (c) the year of its construction;
 - (d) the material of which its hull is made;
 - (e) its main colour;
 - (f) its name;
 - (g) its registration number.
- 6 Details of the number of persons who are to assist the transferee to take fish from the boat or otherwise.
- 7 Details of the person who is to be the registered master of the boat.
- 8 Details of any device to be used to take fish
- 9 Statements by the transferee as to—
 - (a) whether or not the transferee holds a licence in respect of any fishery; and
 - (b) whether or not the transferee is the associate of a person who holds a licence in respect of any fishery; and
 - (c) whether or not the transferee, or where the transferee is a company, a director of the company, is a party to a contract, arrangement or understanding, the purpose or effect of which is that the transferee or director will act at the direction of, or in accordance with, the wishes or instruction of another in relation to the transferee's activities pursuant to the licence; and
 - (d) whether or not the transferee, or where the transferee is a company, a director of the company, has, during the three years immediately preceding the date of the application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing; and

- (e) whether or not the transferee, or where the transferee is a company, a director of the company, has, at the date of the application, any proceedings alleging an offence involving a breach of any legislation relating to fishing pending or likely to be commenced against the transferee or director.
- 10 Details in respect of any of the statements made by the transferee in respect of the matters referred to in clause 9.

Schedule 3—Area S

1—Area 1

Those waters adjacent to the coast of Nene Valley which are contained within a line commencing at the high water mark at position latitude 37°59.3'S, 140°30.7'E then due south for approximately 2.9 nautical miles to position latitude 38°02.4'S, longitude 140°30.7'E then generally south east for approximately 2.7 nautical miles to position latitude 38°04.4'S, longitude 140°34.2'E then due north for approximately 2.6 nautical miles to high water mark at position latitude 38°01.4'S, longitude 140°34.2'E then generally north westerly following high water mark back to the point of commencement.

2—Area 2

Those waters adjacent to the coast at Brown and Riddoch Bays which are contained between the meridians of longitude 140°45'E and longitude 140°55'E extending seawards for three nautical miles from the high water mark.

3—Area 3

Those waters of Ringwood Reef bounded by a line commencing at latitude 37°31.95'S longitude 140°01.3'E then in generally easterly direction to a point of latitude 37°31.95'S longitude 140°02.6'E then in a southerly direction to a point latitude 37°32.5'E longitude 140°02.6'E then in generally westerly direction to a point latitude 37°32.3'S longitude 140°01.3'E then in a generally northerly direction to the point of commencement.

4—Area 4

Those waters bounded by a line commencing at the high water mark on Rapid Point latitude 37°55.7'S longitude 140°23.38'E, then in a generally south westerly direction to position latitude 37°56'S longitude 140°21.5'E, then in a generally south easterly direction to position latitude 37°58.5'S longitude 140°26'E, then in north easterly direction to Blackfellows Caves in latitude 37°57'S longitude 140°28.2'E, then north westerly direction back to the point of commencement.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Formerly

Scheme of Management (Abalone Fisheries) Regulations 1991

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
1991	105	<i>Gazette 27.6.1991 p2123</i>	27.6.1991: r 2
1992	109	<i>Gazette 25.6.1992 p1936</i>	25.6.1992: r 2
1993	121	<i>Gazette 24.6.1993 p2061</i>	24.6.1993: r 2
1994	7	<i>Gazette 17.2.1994 p486</i>	17.2.1994: r 2
1994	99	<i>Gazette 23.6.1994 p1816</i>	23.6.1994: r 2
1995	149	<i>Gazette 29.6.1995 p3164</i>	29.6.1995: r 2
1995	218	<i>Gazette 7.12.1995 p1579</i>	1.1.1996: r 2
1996	150	<i>Gazette 20.6.1996 p3007</i>	20.6.1996: r 2
1997	129	<i>Gazette 13.5.1997 p1957</i>	13.5.1997: r 2
1998	143	<i>Gazette 11.6.1998 p2560</i>	11.6.1998: 2
1999	140	<i>Gazette 1.7.1999 p49</i>	1.7.1999: r 2
2000	132	<i>Gazette 22.6.2000 p3352</i>	22.6.2000: r 2
2001	140	<i>Gazette 28.6.2001 p2445</i>	28.6.2001: r 2
2002	47	<i>Gazette 14.6.2002 p2153</i>	Pt 2 (rr 3—6)—14.6.2002: r 2
2002	229	<i>Gazette 12.12.2002 p4612</i>	12.12.2002 except r 6—1.1.2003: r 2
2003	141	<i>Gazette 5.6.2003 p2407</i>	Pt 4 (rr 7—9)—5.6.2003: r 2
2003	185	<i>Gazette 28.8.2003 p3390</i>	1.9.2003: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 1	substituted by 141/2003 r 7	5.6.2003
r 4		
r 4(1)		
conversion value	inserted by 185/2003 r 4(1)	1.9.2003
director	substituted by 47/2002 r 4(a)	14.6.2002
licence period	inserted by 149/1995 r 3	29.6.1995

Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991—1.9.2003 to 18.2.2004
Legislative history

	substituted by 143/1998 r 3	11.6.1998
<i>meat</i>	<i>inserted by 229/2002 r 3(a)</i>	<i>12.12.2002</i>
	<i>deleted by 185/2003 r 4(2)</i>	<i>1.9.2003</i>
proprietary company	inserted by 7/1994 r 3	17.2.1994
	substituted by 47/2002 r 4(b)	14.6.2002
SARDI	inserted by 121/1993 r 3	24.6.1993
r 4(2)	varied by 47/2002 r 4(c)	14.6.2002
r 4(3)	varied by 47/2002 r 4(e)	14.6.2002
	(a) deleted by 47/2002 r 4(d)	14.6.2002
r 4(5)	inserted by 229/2002 r 3(b)	12.12.2002
r 4(6)	inserted by 185/2003 r 4(3)	1.9.2003
r 4A	inserted by 185/2003 r 5	1.9.2003
r 7	substituted by 149/1995 r 4	29.6.1995
	substituted by 143/1998 r 4	11.6.1998
r 8		
r 8(1)	varied by 149/1995 r 5(a)	29.6.1995
r 8(5)	varied by 140/1999 r 3	1.7.1999
r 8(6)	substituted by 149/1995 r 5(b)	29.6.1995
	substituted by 143/1998 r 5	11.6.1998
r 8(7)	substituted by 140/2001 r 3	28.6.2001
r 8A	inserted by 109/1992 r 3	25.6.1992
	substituted by 149/1995 r 6	29.6.1995
r 9		
r 9(4)	(c) deleted by 109/1992 r 4	25.6.1992
r 9(5)	substituted by 7/1994 r 4	17.2.1994
r 10		
r 10(2)	varied by 229/2002 r 4	12.12.2002
r 10A	inserted by 229/2002 r 5	12.12.2002
r 10B	inserted by 185/2003 r 6	1.9.2003
r 11	substituted by 7/1994 r 5	17.2.1994
r 11A	inserted by 185/2003 r 7	1.9.2003
r 13	varied by 7/1994 r 6	17.2.1994
	varied by 149/1995 r 7	29.6.1995
	varied by 218/1995 r 3	1.1.1996
	substituted by 229/2002 r 6	1.1.2003
r 13(1)		
<i>conversion value</i>	<i>deleted by 185/2003 r 8(1)</i>	<i>1.9.2003</i>
<i>whole</i>	<i>deleted by 185/2003 r 8(1)</i>	<i>1.9.2003</i>
<i>r 13(5)</i>	<i>deleted by 185/2003 r 8(2)</i>	<i>1.9.2003</i>
r 13A	inserted by 229/2002 r 6	1.1.2003
r 13A(1)		
abalone quote	varied by 185/2003 r 9(1)	1.9.2003

fishery	varied by 185/2003 r 9(2)	1.9.2003
prescribed period	substituted by 185/2003 r 9(3)	1.9.2003
unit entitlement	varied by 185/2003 r 9(4)	1.9.2003
unit value	varied by 185/2003 r 9(5)	1.9.2003
r 13A(2)	varied by 185/2003 r 9(6)—(8)	1.9.2003
r 13A(3)	varied by 185/2003 r 9(9)	1.9.2003
rr 13B and 13C	inserted by 185/2003 r 10	1.9.2003
r 14		
r 14(1)	varied by 109/1992 r 5	25.6.1992
	varied by 121/1993 r 4	24.6.1993
r 15	varied by 121/1993 r 5.	24.6.1993
Sch 1	substituted by 109/1992 r 6	25.6.1992
	substituted by 121/1993 r 6	24.6.1993
	substituted by 99/1994 r 3	23.6.1994
	varied by 149/1995 r 8	29.6.1995
	varied by 150/1996 r 3	20.6.1996
	varied by 129/1997 r 3	13.5.1997
	varied by 143/1998 r 6	11.6.1998
	varied by 140/1999 r 4	1.7.1999
	varied by 132/2000 r 3	22.6.2000
	varied by 140/2001 r 4	28.6.2001
	varied by 47/2002 r 5	14.6.2002
	varied by 141/2003 r 8	5.6.2003
Sch 2		
cl 3	substituted by 7/1994 r 7(a)	17.2.1994
cl 9	varied by 7/1994 r 7(b)	17.2.1994
Sch 3	deleted by 109/1992 r 7	25.6.1992
	inserted by 185/2003 r 11	1.9.2003

Transitional etc provisions associated with regulations or variations

No 109 of 1992

8—Transitional provision

- (1) The licence renewal fee prescribed in respect of a fishery by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence year for that fishery commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 6, the licence renewal fee prescribed in respect of a fishery by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year for that fishery that commenced before the commencement of these regulations.
- (3) In this regulation—

licence year, in respect of a fishery, means the period of 12 months from the date of expiry of licences in respect of the fishery in one year to the date of expiry of the licences in the next year.

No 121 of 1993

7—Transitional provision

- (1) The licence renewal fee prescribed in respect of a fishery by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence year for that fishery commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 6, the licence renewal fee prescribed in respect of a fishery by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year for that fishery that commenced before the commencement of these regulations.
- (3) In this regulation—

licence year, in respect of a fishery, means the period of 12 months from the date of expiry of licences in respect of the fishery in one year to the date of expiry of the licences in the next year.

No 99 of 1994

4—Transitional provision

- (1) The licence renewal fee prescribed in respect of a fishery by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence year for that fishery commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 3, the licence renewal fee prescribed in respect of a fishery by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year for that fishery that commenced before the commencement of these regulations.
- (3) In this regulation—

licence year, in respect of a fishery, means the period of 12 months from the date of expiry of licences in respect of the fishery in one year to the date of expiry of the licences in the next year.

No 149 of 1995

9—Transitional provision

- (1) A licence renewal fee prescribed by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 8, a licence renewal fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period commencing before the commencement of these regulations.
- (3) In this regulation—

licence period has the same meaning as in the principal regulations as varied by these regulations.

No 129 of 1997

4—Transitional provision

- (1) A licence renewal fee prescribed by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 3, a licence renewal fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 143 of 1998

7—Transitional provision

- (1) A licence renewal fee prescribed by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 6, a licence renewal fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 140 of 1999

5—Transitional provision

- (1) A licence renewal fee prescribed by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 4, a licence renewal fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 132 of 2000

4—Transitional provision

- (1) A fee prescribed by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.

- (2) Despite regulation 3, a fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 140 of 2001

5—Transitional provision

- (1) A fee prescribed by Schedule 1 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 4, a fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

Fisheries (Variation of Schemes of Management) Regulations 2002 (No 47 of 2002)

6—Transitional provision

- (1) A fee prescribed by Schedule 1 of the principal regulations as varied by this Part applies in relation to a licence period commencing after the commencement of this Part.
- (2) Despite regulation 5, a fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of this Part continues to apply in relation to a licence period that commenced before the commencement of this Part.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

Fisheries (Fees) Variation Regulations 2003 (No 141 of 2003)

9—Transitional provision

- (1) A fee prescribed by Schedule 1 of the principal regulations as varied by this Part applies in relation to the licence period commencing after the commencement of these regulations.
- (2) Despite regulation 8, a fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to the licence period commencing before the commencement of these regulations.

Appendix—Divisional penalties and expiation fees

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

Note: This appendix is provided for convenience of reference only.