

South Australia

## **Fisheries (Scheme of Management—Abalone Fisheries) Regulations 2006**

under the *Fisheries Act 1982*

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### **1—Short title**

These regulations may be cited as the *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 2006*.

### **2—Commencement**

These regulations will come into operation on 1 September 2006.

### 3—Interpretation

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

***abalone fishery*** means—

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

constituted by these regulations;

***Act*** means the *Fisheries Act 1982*;

***Central Zone*** means the coastal waters between the meridians of longitude 136°30'E and 139°E 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 to be the conversion value for the purpose of calculating the weight of abalone meat before removal from the shell;

***Corporations Act*** means the *Corporations Act 2001* of the Commonwealth;

***current company extract*** means a document prepared by the Australian Securities and Investment Commission from its national database kept under the Corporations Act that contains current details of the following in relation to a company:

- (a) the company's name;
- (b) the address of the company's registered office;
- (c) the date of registration of the company;
- (d) the State or Territory in which the company is taken to be registered under the Corporations Act;
- (e) the company's Australian Company Number;
- (f) whether the company is a proprietary company or a public company;
- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

***Department*** means the administrative unit of the Public Service responsible, through the Minister, for the administration of the Act;

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

***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;

***revoked regulations*** means the regulations revoked by Schedule 2;

***SARDI*** means the South Australian Research and Development Institute;

**Southern Zone** means the coastal waters east of the meridian of longitude 139°E 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'E;

**whole**, in relation to an abalone, means the whole of the abalone including the meat, viscera and shell.

- (2) In these regulations, unless the contrary intention appears, **company**, **director**, **proprietary company** and **public company** have the same respective meanings as in the Corporations Act.
- (3) 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.
- (4) 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.

#### **4—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 Central Zone Abalone Fishery;
  - (b) the Southern Zone Abalone Fishery;
  - (c) the Western Zone Abalone Fishery.
- (2) The Central Zone Abalone Fishery consists of the taking of abalone in the waters of the Central Zone.
- (3) The Southern Zone Abalone Fishery consists of the taking of abalone in the waters of the Southern Zone.
- (4) The Western Zone Abalone Fishery consists of the taking of abalone in the waters of the Western Zone.

#### **6—No further licences to be granted**

- (1) 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 licences may be granted in respect of the Fishery.

- (2) 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 licences may be granted in respect of the Fishery.
- (3) 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 licences may be granted in respect of the Fishery.

### **7—Expiry of licence**

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

### **8—Renewal of licence**

- (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 must be made by the holder of the licence or, if the licence has expired, by the person who last held the licence.
- (3) An application to renew a licence must—
  - (a) be made in a form approved by the Director; and
  - (b) contain the information specified in the form; and
  - (c) be signed by the applicant.
- (4) If 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.
- (5) If 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.
- (6) The Director must 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 (7); 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.
- (7) If an application to renew a licence is made before or within 3 months after the expiry of the licence, the renewal fee may be paid by 4 equal instalments payable on or before the date of renewal of the licence and 1 October, 1 January and 1 April following the date of renewal.

- (8) 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.
- (9) If—
- (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.

### **9—Refund on surrender of licence**

If 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.

### **10—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—
- (a) be made jointly by the holder of the licence and the transferee in a form approved by the Director; and
  - (b) contain the information specified in the form; and
  - (c) be signed by the applicants; and
  - (d) be verified by statutory declaration; and
  - (e) be accompanied by—
    - (i) the licence to be transferred; and
    - (ii) a form of return as required by regulation 21 completed by the holder of the licence up to the date of application; and
    - (iii) if the transferee is a company—a current company extract relating to the transferee issued not more than 1 month immediately preceding the date of application; and
    - (iv) the appropriate fee specified in Schedule 1.
- (3) Before consenting to the transfer of a licence, the Director must be satisfied—
- (a) that the licence to be transferred has not been suspended; and
  - (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; and
  - (c) that the transfer is to 1 person only; and

- (d) that the transferee is—
  - (i) a natural person of at least 15 years of age; or
  - (ii) a company; and
- (e) that no conviction for an offence involving a breach of legislation relating to fishing has, within the period of 3 years preceding the date of the application, been recorded in the State or elsewhere in Australia against the transferee or, if the transferee is a company, against a director of the company; and
- (f) that no proceedings alleging an offence involving a breach of legislation relating to fishing are pending or likely to be commenced in the State or elsewhere in Australia against the transferee or, if the transferee is a company, against a director of the company; and
- (g) if a 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 law 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 over exploit fishery resources; and
    - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

## **11—Registration of boats**

- (1) An application to register a boat to be used pursuant to a licence in respect of an abalone fishery must—
  - (a) be made in a form approved by the Director; and
  - (b) contain the information specified in the form; and
  - (c) be signed by the applicant; and
  - (d) be accompanied by the applicant's licence in respect of the fishery.
- (2) Before granting an application to register a boat, the Director must be satisfied that the applicant holds a licence in respect of the fishery.

## **12—Registration of masters**

An application to register a person as the master of a boat used pursuant to a licence in respect of an abalone fishery must—

- (a) be made in a form approved by the Director; and
- (b) contain the information specified in the form; and
- (c) be signed by the applicant; and
- (d) be accompanied by the applicant's licence in respect of the fishery.

### 13—Revocation of registration

- (1) The Director may, on application by the holder of a licence in respect of an abalone fishery, revoke a registration effected by endorsement of the licence.
- (2) An application for revocation of a registration must—
  - (a) be made in a form approved by the Director; and
  - (b) be signed by the applicant; and
  - (c) be accompanied by the applicant's licence in respect of the fishery.

### 14—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 lawfully be 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, before 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;
  - (c) the Director may, from time to time, vary the conversion value for the fishery and a class of abalone;

- (d) on application made to the Director by the holders of any 2 licences in respect of the fishery, the conditions of the licences may be varied so as to increase the unit entitlement of 1 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;
  - (e) 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) if the catch exceeded the quota by not more than 10 kilograms of meat of abalone—by 1 kilogram for each kilogram in excess of the quota; or
    - (ii) if the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of meat of abalone—by 2 kilograms for each kilogram in excess of the quota;
  - (f) if the total catch of abalone of a particular class taken pursuant to a licence in respect of the fishery during a particular prescribed period was less than the abalone quota of the licence in respect of that class of abalone and prescribed period, the Director may vary the conditions of the licence so as—
    - (i) to increase the quota in respect of that class of abalone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota (but in any case by not more than 20 kilograms); and
    - (ii) to prohibit the transfer of the additional quota to another licence;
  - (g) 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;
  - (h) a variation of—
    - (i) a unit entitlement made under paragraph (d); or
    - (ii) an abalone quota made under paragraph (e), (f) or (g),must be expressed to apply only for the prescribed period during which the variation is made;
  - (i) unit entitlements and abalone quotas must not be varied except as provided by this regulation.
- (3) An application under subregulation (2)(d) must—
- (a) be made in a form approved by the Director; and

- (b) contain the information specified in the form; and
  - (c) be signed by the applicants; and
  - (d) be accompanied by the appropriate fee specified in Schedule 1.
- (4) For the purposes of subregulation (2)(f), in determining whether the total catch of abalone during a particular prescribed period was less than the abalone quota of the licence in respect of that period, any increase in the abalone quota of the licence applying during that period as a result of a variation made under that subregulation will be taken not to form part of the abalone quota of the licence.
- (5) 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 3 prescribed periods following the conviction by 1 kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.

## 15—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 1** means 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 the high water mark at position latitude 38°01.4'S, longitude 140°34.2'E, then generally north westerly following the high water mark back to the point of commencement;

**area 2** means 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 3 nautical miles from the high water mark;

**area 3** means 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;

**area 4** means 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;

**Area S** means that part of the Southern Zone comprised of areas 1, 2, 3 and 4;

**fishery** means the Southern Zone Abalone Fishery;

**fishing zone** means—

- (a) the Southern Zone; or
- (b) Area S; or
- (c) any 1, 2 or 3 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, before 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) on application made to the Director by the holders of any 2 licences in respect of the fishery, the conditions of those licences may be varied so as to increase the unit entitlement of 1 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) if the catch exceeded the quota by not more than 10 kilograms of abalone meat—by 1 kilogram for each kilogram in excess of the quota; or
  - (ii) if the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by 2 kilograms for each kilogram in excess of the quota;
- (f) if the total catch of abalone of a particular class taken pursuant to a licence in a fishing zone during a particular prescribed period was less than the abalone quota of the licence in respect of that class of abalone, fishing zone and prescribed period, the Director may vary the conditions of the licence so as—
  - (i) to increase the quota in respect of that class of abalone and fishing zone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota (but in any case by not more than 20 kilograms); and
  - (ii) to prohibit the transfer of the additional quota to another licence;
- (g) 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;
- (h) a variation of—
  - (i) a unit entitlement made under paragraph (d); or
  - (ii) an abalone quota made under paragraph (e), (f) or (g),must be expressed to apply only for the prescribed period during which the variation is made;
- (i) unit entitlements and abalone quotas must not be varied except as provided by this regulation.

- (3) An application under subregulation (2)(d) must—
- (a) be made in a form approved by the Director; and
  - (b) contain the information specified in the form; and
  - (c) be signed by the applicants; and
  - (d) be accompanied by the appropriate fee specified in Schedule 1.
- (4) For the purposes of subregulation (2)(f), in determining whether the total catch of abalone during a particular prescribed period was less than the abalone quota of the licence in respect of that period, any increase in the abalone quota of the licence applying during that period as a result of a variation made under that subregulation will be taken not to form part of the abalone quota of the licence.
- (5) 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 3 prescribed periods following the conviction by 1 kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.
- (6) The holder of a licence in respect of the fishery must not, on any 1 day, take abalone pursuant to the licence, or cause, suffer or permit abalone to be taken pursuant to the licence—
- (a) from more than 1 of the 4 areas that comprise Area S; or
  - (b) from both Area S and the waters of the Southern Zone outside Area S.
- Maximum penalty: \$4 000.

## **16—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;
- (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, before 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 2 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 1 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 2 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 1 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) if the catch exceeded the quota by not more than 10 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota;
  - (ii) if the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by 2 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) if the catch exceeded the quota by not more than 10 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota;
  - (ii) if the catch exceeded the quota by more than 10 kilograms but not more than 50 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota;
- (h) if the total catch of abalone of a particular class taken pursuant to a licence in region A during a particular prescribed period was less than the abalone quota of the licence in respect of that region, class of abalone and prescribed period, the Director may vary the conditions of the licence so as—

- (i) to increase the quota in respect of that region and class of abalone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota (but in any case by not more than 20 kilograms); and
    - (ii) to prohibit the transfer of the additional quota to another licence;
  - (i) if the total catch of abalone taken pursuant to a licence in region B during a particular prescribed period was less than the abalone quota of the licence in respect of that region and prescribed period, the Director may vary the conditions of the licence so as—
    - (i) to increase the quota in respect of that region by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota (but in any case by not more than 20 kilograms); and
    - (ii) to prohibit the transfer of the additional quota to another licence;
  - (j) 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;
  - (k) a variation of—
    - (i) a unit entitlement made under paragraph (d) or (e); or
    - (ii) an abalone quota made under paragraph (f), (g), (h), (i) or (j),must be expressed to apply only for the prescribed period during which the variation is made;
  - (l) 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—
  - (a) be made in a form approved by the Director; and
  - (b) contain the information specified in the form; and
  - (c) be signed by the applicants; and
  - (d) be accompanied by the appropriate fee specified in Schedule 1.
- (4) For the purposes of subregulation (2)(h) or (i), in determining whether the total catch of abalone during a particular prescribed period was less than the abalone quota of the licence in respect of that period, any increase in the abalone quota of the licence applying during that period as a result of a variation made under that subregulation will be taken not to form part of the abalone quota of the licence.

(5) 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 3 prescribed periods following the conviction by 1 kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.

#### **17—Only 1 registered boat to be used at any 1 time**

If 2 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.

Maximum penalty: \$4 000.

#### **18—Only 1 registered master to be engaged in fishing activities**

If—

- (a) 2 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.

Maximum penalty: \$4 000.

#### **19—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.

Maximum penalty: \$4 000.

#### **20—Catch and disposal records**

(1) In this regulation—

***CDR book*** means the book issued by the Department containing blank CDR1 forms;

***CDR1 form*** means the form produced by the Department 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 the 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 CDR1 form in respect of abalone taken pursuant to the licence—
    - (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.
- (3) If a provision of subregulation (2) is not complied with, the holder of the licence is guilty of an offence.  
Maximum penalty: \$4 000.

## 21—Returns

- (1) The holder of a licence in respect of an abalone fishery must—
- (a) complete 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 Executive Director 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 Executive Director of SARDI within 15 days of the end of the month to which it relates.
- Maximum penalty: \$4 000.  
Expiation fee: \$315.
- (2) If the holder of a licence takes no abalone pursuant to the licence 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) If an abalone fishery has been closed for a whole calendar month, the holder of a licence need not furnish a return for that month.
- (4) The holder of a licence must—
- (a) make a copy of each return that he or she completes under this regulation before the return is sent or delivered to the Executive Director of SARDI; and

- (b) retain the copy for a period of 12 months from the last day of the month to which the return relates.

Maximum penalty: \$4 000.

### **Schedule 1—Fees**

1	On application for the renewal of a licence in respect of—	
	(a) the Central Zone Abalone Fishery	\$68 974.00
	(b) the Southern Zone Abalone Fishery	\$68 142.00
	(c) the Western Zone Abalone Fishery	\$68 225.00
2	On application for consent to the transfer of a licence in respect of an abalone fishery	\$311.00
3	On application to vary licence conditions so as to alter unit entitlements in respect of abalone	\$104.00

### **Schedule 2—Revocation of *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991***

The *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 1991* are revoked.

## Legislative history

### Notes

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

### Principal regulations

Year	No	Reference	Commencement
2006	203	<i>Gazette 24.8.2006 p2912</i>	1.9.2006: r 2