

South Australia

## **Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991**

under the *Fisheries Act 1982*

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### **Contents**

- 1 Short title
- 3 Revocation
- 4 Interpretation
- 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
- 11 Use of second registered boat in Northern Zone
- 12 Registration as master
- 13 Revocation of registration
- 14 Rock lobster pot entitlement
- 14AA Individual rock lobster catch quota system—Northern Zone
- 14A Individual catch quota system—Southern Zone
- 14B Individual giant crab catch quota system
- 14C Rock lobster taken in Northern Zone to be landed whole within the State
- 14D Disposal of rock lobster—Northern Zone
- 14E Catch and disposal records—Northern Zone
- 15 Furnishing of returns
- 16 Copies of returns must be made
- 17 Victorian licences
- 18 Sale of rock lobster during closed season

Schedule 1—Fish prescribed for rock lobster fisheries

Schedule 2—Fees

Schedule 3—Information required in application for consent to licence transfer

Schedule 4—Licences to which giant crab units may be allocated

Legislative history

Appendix—Divisional penalties and expiation fees

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## **1—Short title**

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

## **3—Revocation**

The following regulations are revoked:

- (a) the *Scheme of Management (Northern Zone Rock Lobster Fishery) Regulations 1984* (see *Gazette 24.6.2004 p1625*), as varied; and
- (b) the *Scheme of Management (Southern Zone Rock Lobster Fishery) Regulations 1984* (see *Gazette 14.6.1984 p1636*), as varied.

## **4—Interpretation**

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

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

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

**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 influence of the sea, but does not include the waters of the Coorong between the barrages and the Murray Mouth;

**closed season**, in relation to a rock lobster fishery, means a period, as specified in the *Fisheries (General) Regulations 2000* during which the taking of rock lobster in the Zone for that fishery is unlawful by virtue of section 41 of the Act and those regulations;

**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;

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

**non-commercial purpose** means a purpose other than trade or business;

**Northern Zone** means the coastal waters westerly of a line commencing at the point where the meridian of longitude 139°E intersects the shore of South Australia, then due south to position latitude 36°20.0'S and longitude 139°E, then due west to position latitude 36°20.0'S and longitude 138°40.0'E, then due south to position latitude 36°40.0'S and longitude 138°40.0'E, then due west to position latitude 36°40.0'S and longitude 138°20.0'E, then due south to position latitude 37°S and longitude 138°20.0'E, then due west to position latitude 37°S and longitude 138°E, then continuing due south along the meridian of longitude 138°E;

**NZRL-CDR form** means the form produced by the Department of Primary Industries and Resources entitled *Northern Zone Rock Lobster Catch and Disposal Record*;

**prescribed Victorian licence** means a Victorian licence that is held by the holder of a licence in respect of the Southern Zone Rock Lobster Fishery as a result of a transfer made before 28 June 1990;

**the revoked regulations** means the regulations revoked by regulation 3;

**rock lobster** means southern rock lobster (*Jasus edwardsii*);

**rock lobster fishery** means—

- (a) the Northern Zone Rock Lobster Fishery; or
- (b) the Southern Zone Rock Lobster Fishery,

constituted by these regulations;

**rock lobster pot** means a fish trap designed and constructed for the purpose of taking rock lobster;

**rock lobster pot entitlement** means the maximum number of rock lobster pots that the holder of a licence in respect of a rock lobster fishery may lawfully use at any one time for the purpose of taking rock lobster pursuant to the licence;

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

**Southern Zone** means the coastal waters easterly of a line commencing at the point where the meridian of longitude 139°E intersects the shore of South Australia, then due south to position latitude 36°20.0'S and longitude 139°E, then due west to position latitude 36°20.0'S and longitude 138°40.0'E, then due south to position latitude 36°40.0'S and longitude 138°40.0'E, then due west to position latitude 36°40.0'S and longitude 138°20.0'E, then due south to position latitude 37°S and longitude 138°20.0'E, then due west to position latitude 37°S and longitude 138°E, then continuing due south along the meridian of longitude 138°E;

**Victorian licence** means a licence, permit, authority or other entitlement that authorises the holder to take fish for sale from waters of the State of Victoria that are adjacent to or adjoin the Southern Zone.

- (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.
- (4) In these regulations, a reference to the taking of fish includes a reference to an act preparatory to, or involved in the taking of the fish.

**Note—**

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

## **5—Constitution of fisheries**

- (1) The following fisheries are constituted:
  - (a) the Northern Zone Rock Lobster Fishery; and
  - (b) the Southern Zone Rock Lobster Fishery.
- (2) The Northern Zone Rock Lobster Fishery consists of—
  - (aa) the taking of rock lobster in the waters of the Northern Zone; and
  - (a) the taking of fish specified in Schedule 1 in the waters of the Northern Zone; and
  - (b) the taking of razor fish (*Pinna bicolor*) in the waters of the Northern Zone for the purpose of bait.
- (3) The Southern Zone Rock Lobster Fishery consists of—
  - (aa) the taking of rock lobster in the waters of the Southern Zone; and
  - (a) the taking of fish specified in Schedule 1 in the waters of the Southern Zone; and
  - (b) the taking of razor fish (*Pinna bicolor*) in the waters of the Southern Zone for the purpose of bait.

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

- (1) The licences in respect of the Northern Zone Rock Lobster Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Northern Zone Rock Lobster 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 Southern Zone Rock Lobster 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 Rock Lobster 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 a rock lobster fishery expires on 30 June following the date of its last renewal.

## **8—Renewal of licences**

- (1) A licence in respect of a rock lobster 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 a rock lobster 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.
- (4a) The Director must not renew a licence in respect of the Southern Zone Rock Lobster Fishery unless a rock lobster pot entitlement of not less than 40 is endorsed on the licence.
- (5) The Director may not renew a licence unless the applicant has paid—
  - (a) —
    - (i) the renewal fee specified in Schedule 2 less \$90; or
    - (ii) the first instalment of the renewal fee specified in Schedule 2, 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 such 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 a rock lobster 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 a rock lobster fishery may be transferred with the consent of the Director.
- (3) 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.

- (4) The application—
- (a) must be made in writing in a form approved by the Director; and
  - (b) must contain the information specified in Schedule 3; 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 the applicants by statutory declaration.
- (5) 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
  - (c) where the transferee is a company—a current company extract relating to the transferee issued not more than one month immediately preceding the date of application; and
  - (d) the application fee specified in Schedule 2.
- (6) 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; 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 one person only; and
  - (d) that the transferee is—
    - (i) a natural person of at least 15 years of age; or
    - (ii) a 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;
  - (h) 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 (other than a prescribed Victorian licence)—
    - (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 pursuant to a licence in respect of a rock lobster 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—
  - (a) that the applicant is the holder of a licence in respect of the fishery; and
  - (b) that—
    - (i) where the applicant holds a licence in respect of the Northern Zone Rock Lobster Fishery—no more than one other boat is registered by endorsement of the applicant's licence in respect of the fishery; or
    - (ii) where the applicant holds a licence in respect of the Southern Zone Rock Lobster Fishery—
      - (A) the boat in respect of which the application is made is not already registered by endorsement of any licence in respect of a rock lobster fishery; and
      - (B) no other boat is registered by endorsement of the applicant's licence in respect of the Southern Zone Rock Lobster Fishery.

## **11—Use of second registered boat in Northern Zone**

- (1) Where two boats are registered by endorsement of a licence in respect of the Northern Zone Rock Lobster 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 unless the use made of one of the boats is limited to the setting and retrieval of bait nets and mesh nets.

Penalty: Division 6 fine.

- (2) Any second registered boat that is being used for the setting and retrieval of nets as referred to in subregulation (1) need not be in the charge of a registered master.

## **12—Registration as master**

An application for registration of a person as the master of a boat used pursuant to a licence in respect of a rock lobster 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.

## **13—Revocation of registration**

- (1) The Director may, on application by the holder of a licence in respect of a rock lobster fishery, revoke a 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.

#### **14—Rock lobster pot entitlement**

- (1) The Director may impose or vary conditions on licences in respect of a rock lobster fishery fixing rock lobster pot entitlements as follows:
- (a) a rock lobster pot entitlement may be fixed by condition of a licence but must—
    - (i) in the case of a licence in respect of the Northern Zone Rock Lobster Fishery—be not more than 70 and not less than 25;
    - (ii) in the case of a licence in respect of the Southern Zone Rock Lobster Fishery—be not more than 100 and not less than 40;
  - (b) the rock lobster pot entitlement fixed by any such condition of a licence must be the number endorsed on the licence as the rock lobster pot entitlement under the revoked regulations immediately before the commencement of these regulations subject to any subsequent variation made in accordance with this regulation;
  - (c) the rock lobster pot entitlements fixed by licence conditions as referred to in this regulation may be increased or decreased on the same proportionate basis for all licences (provided that where in relation to any licence the result of such proportionate variation would be a fractional entitlement, that fractional entitlement is increased to the next highest whole number) if the Director is satisfied that it is appropriate to do so for the proper management of a rock lobster fishery;
  - (d) subject to paragraph (e), the rock lobster pot entitlements fixed by the conditions of any two licences in respect of the same fishery may, on application made by the holders of those licences in a manner and form approved by the Director and payment of the fee specified in Schedule 2, be varied so as to increase the entitlement under one of the licences and decrease the entitlement under the other by a corresponding number;
  - (e) a variation must not be made as referred to in paragraph (d) if it would result in the entitlement under one of the licences exceeding the upper limit referred to in paragraph (a);
  - (ea) a variation must not be made as referred to in paragraph (d) if it would result in the entitlement under one of the licences falling below the lower limit referred to in paragraph (a) unless—
    - (i) the variation is expressed to apply only until the expiry of the licence; or
    - (ii) —
      - (A) the licence is surrendered to the Director; and

- (B) if any boat registered by endorsement on that licence is the subject of, is registered by endorsement on, 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 (other than a prescribed Victorian licence)—that other licence, permit, authority or entitlement is also surrendered;
- (f) notwithstanding any other provisions of this regulation, where the rock lobster pot entitlement under a licence in respect of the Southern Zone Rock Lobster Fishery was, immediately before the commencement of these regulations, less than 40, the entitlement under that licence may, until the licence is transferred, continue to be fixed at a number less than 40;
- (g) notwithstanding any other provisions of this regulation, a variation may be made in accordance with paragraph (c) in respect of the Northern Zone Rock Lobster Fishery despite the fact that it would result in the rock lobster pot entitlement under a licence falling below 25, and, in that event, the entitlement under that licence may, until the licence is transferred, continue to be fixed at a number less than 25 but may not be decreased subsequently except to a number not less than 25.
- (1a) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must not, for the purpose of trade or business, engage in a fishing activity of a class that constitutes the Fishery while the rock lobster pot entitlement endorsed on the licence is less than 25.
- Penalty: Division 6 fine.  
Expiation fee: Division 6 fee.
- (2) The Director may impose conditions on licences in respect of a rock lobster fishery limiting the number of rock lobster pots that may be carried on boats and otherwise regulating the carrying of rock lobster pots on boats used for fishing activities pursuant to the licences.
- (3) Where a court convicts the holder of a licence in respect of a rock lobster fishery of an offence of contravening a condition of the licence fixing a rock lobster pot entitlement, the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the rock lobster pot entitlement under the licence by one rock lobster pot for each rock lobster pot used in excess of the entitlement.

#### **14AA—Individual rock lobster catch quota system—Northern Zone**

- (1) In this regulation—

*fishery* means the Northern Zone Rock Lobster Fishery;

*prescribed period* means—

- (a) the period commencing on 1 November 2003 and ending on 30 June 2004; or  
(b) the period of 12 months commencing on 1 July 2004 or on 1 July in any subsequent year;

*relevant period* means a period determined by the Director to be a relevant period for the purposes of this regulation;

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

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

subject to any variation of the rock lobster quota of the licence applying during that prescribed period;

**unit entitlement** means the number of rock lobster units for the time being allocated to a licence;

**unit value** means the number of kilograms of rock lobster determined by the Director to be the value of a rock lobster unit for the fishery and a prescribed period.

- (2) The Director may impose or vary conditions on licences in respect of the fishery fixing rock lobster quotas as follows:
- (a) on or before 1 November 2003 each licence in respect of the fishery must be allocated a number of rock lobster units for the prescribed period commencing on that date to be determined by the Director as follows:
    - (i) if the person who held the licence on 15 September 2003 is the person who held the licence for the whole of the relevant period, the licence will be allocated a number of rock lobster units that is the sum of—
      - (A) a number determined by the Director having regard to—
        - the number of rock lobster pots endorsed on the licence on 15 September 2003; and
        - the quantity of rock lobster taken pursuant to the licence during the relevant period (as recorded on returns lodged under regulation 15) relative to the number of rock lobster pots endorsed on the licence during the relevant period; and
      - (B) if the number of rock lobster pots endorsed on the licence on 15 September 2003 was greater than the number of rock lobster pots endorsed on the licence on the last day of the relevant period—the number obtained by multiplying 16 by the number of rock lobster pots in the difference between the number of rock lobster pots endorsed on the licence on the last day of the relevant period and the number of rock lobster pots endorsed on the licence on 15 September 2003;
    - (ii) if the person who held the licence on 15 September 2003 held the licence during part only of the relevant period, the licence will be allocated a number of rock lobster units that is the sum of—
      - (A) a number determined by the Director having regard to—
        - the number of rock lobster pots endorsed on the licence on 15 September 2003; and

- the quantity of rock lobster taken pursuant to the licence during that part of the relevant period during which the person held the licence (as recorded on returns lodged under regulation 15) relative to the number of rock lobster pots endorsed on the licence during that part of the relevant period; and
  - a value determined by the Director for the quantity of rock lobster taken pursuant to the licence during that part of the relevant period during which the person did not hold the licence; and
  - a value determined by the Director for the number of rock lobster pots endorsed on the licence during that part of the relevant period during which the person did not hold the licence; and
- (B) if the number of rock lobster pots endorsed on the licence on 15 September 2003 was greater than the number of rock lobster pots endorsed on the licence on the last day of the relevant period—the number obtained by multiplying 16 by the number of rock lobster pots in the difference between the number of rock lobster pots endorsed on the licence on the last day of the relevant period and the number of rock lobster pots endorsed on the licence on 15 September 2003;
- (iii) if the person who held the licence on 15 September 2003 did not hold the licence during any part of the relevant period, the licence will be allocated a number of rock lobster units that is the number obtained by multiplying 16 by the number of rock lobster pots endorsed on the licence on 15 September 2003;
- (b) on or before 1 July 2004 each licence in respect of the fishery must be allocated a number of rock lobster units for the prescribed period commencing on that date to be determined by the Director as follows:
- (i) if the person who held the licence on 1 June 2004 is the person who held the licence for the whole of the relevant period, the licence will be allocated a number of rock lobster units that is the sum of—
- (A) a number determined by the Director having regard to—
- the number of rock lobster pots endorsed on the licence on 1 June 2004; and
  - the quantity of rock lobster taken pursuant to the licence during the relevant period (as recorded on returns lodged under regulation 15) relative to the number of rock lobster pots endorsed on the licence during the relevant period; and

- (B) if the number of rock lobster pots endorsed on the licence on 1 June 2004 was greater than the number of rock lobster pots endorsed on the licence on the last day of the relevant period—the number obtained by multiplying 16 by the number of rock lobster pots in the difference between the number of rock lobster pots endorsed on the licence on the last day of the relevant period and the number of rock lobster pots endorsed on the licence on 1 June 2004;
- (ii) if the person who held the licence on 1 June 2004 held the licence during part only of the relevant period, the licence will be allocated a number of rock lobster units that is the sum of—
- (A) a number determined by the Director having regard to—
- the number of rock lobster pots endorsed on the licence on 1 June 2004; and
  - the quantity of rock lobster taken pursuant to the licence during that part of the relevant period during which the person held the licence (as recorded on returns lodged under regulation 15) relative to the number of rock lobster pots endorsed on the licence during that part of the relevant period; and
  - a value determined by the Director for the quantity of rock lobster taken pursuant to the licence during that part of the relevant period during which the person did not hold the licence; and
  - a value determined by the Director for the number of rock lobster pots endorsed on the licence during that part of the relevant period during which the person did not hold the licence; and
- (B) if the number of rock lobster pots endorsed on the licence on 1 June 2004 was greater than the number of rock lobster pots endorsed on the licence on the last day of the relevant period—the number obtained by multiplying 16 by the number of rock lobster pots in the difference between the number of rock lobster pots endorsed on the licence on the last day of the relevant period and the number of rock lobster pots endorsed on the licence on 1 June 2004;
- (iii) if the person who held the licence on 1 June 2004 did not hold the licence during any part of the relevant period, the licence will be allocated a number of rock lobster units that is the number obtained by multiplying 16 by the number of rock lobster pots endorsed on the licence on 1 June 2004;
- (c) on or before 1 July 2005 each licence in respect of the fishery must be allocated a number of rock lobster units for the prescribed period commencing on that date to be determined by the Director as follows:

- (i) if the person who held the licence on 1 June 2005 is the person who held the licence for the whole of the relevant period, the licence will be allocated a number of rock lobster units that is the sum of—
- (A) a number determined by the Director having regard to—
- the number of rock lobster pots endorsed on the licence on 1 June 2005; and
  - the quantity of rock lobster taken pursuant to the licence during the relevant period (as recorded on returns lodged under regulation 15) relative to the number of rock lobster pots endorsed on the licence during the relevant period; and
- (B) if the number of rock lobster pots endorsed on the licence on 1 June 2005 was greater than the number of rock lobster pots endorsed on the licence on the last day of the relevant period—the number obtained by multiplying 16 by the number of rock lobster pots in the difference between the number of rock lobster pots endorsed on the licence on the last day of the relevant period and the number of rock lobster pots endorsed on the licence on 1 June 2005;
- (ii) if the person who held the licence on 1 June 2005 held the licence during part only of the relevant period, the licence will be allocated a number of rock lobster units that is the sum of—
- (A) a number determined by the Director having regard to—
- the number of rock lobster pots endorsed on the licence on 1 June 2005; and
  - the quantity of rock lobster taken pursuant to the licence during that part of the relevant period during which the person held the licence (as recorded on returns lodged under regulation 15) relative to the number of rock lobster pots endorsed on the licence during that part of the relevant period; and
  - a value determined by the Director for the quantity of rock lobster taken pursuant to the licence during that part of the relevant period during which the person did not hold the licence; and
  - a value determined by the Director for the number of rock lobster pots endorsed on the licence during that part of the relevant period during which the person did not hold the licence; and

- (B) if the number of rock lobster pots endorsed on the licence on 1 June 2005 was greater than the number of rock lobster pots endorsed on the licence on the last day of the relevant period—the number obtained by multiplying 16 by the number of rock lobster pots in the difference between the number of rock lobster pots endorsed on the licence on the last day of the relevant period and the number of rock lobster pots endorsed on the licence on 1 June 2005;
  - (iii) if the person who held the licence on 1 June 2005 did not hold the licence during any part of the relevant period, the licence will be allocated a number of rock lobster units that is the number obtained by multiplying 16 by the number of rock lobster pots endorsed on the licence on 1 June 2005;
- (d) on or before 1 July 2006 each licence in respect of the fishery must be allocated a number of rock lobster units for the prescribed period commencing on that date to be determined by the Director having regard to the rock lobster pot entitlement endorsed on the licence on 1 June 2006;
- (e) on 1 July 2007 and on 1 July of each subsequent year, each licence in respect of the fishery must be allocated a number of rock lobster units for the prescribed period commencing on that date equal to the number endorsed on the licence on the last day of the preceding prescribed period;
- (f) the Director must, on or before the commencement of each prescribed period, determine the number of kilograms of rock lobster that is to be the value of a rock lobster unit for the fishery and the prescribed period;
- (g) 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 and decrease the unit entitlement of the other licence by a corresponding number of units;
- (h) if—
  - (i) a variation of rock lobster pot entitlements is made as referred to in regulation 14(1)(d) in relation to licences in respect of the fishery; and
  - (ii) the variation is not expressed to apply only for a specified period, the Director must vary the number of rock lobster units endorsed on the licences so that for every additional rock lobster pot endorsed on one of the licences, the unit entitlement of that licence is increased by 16 rock lobster units and the unit entitlement under the other licence is decreased by 16 rock lobster units for every rock lobster pot in the decrease in the rock lobster pot entitlement under that licence;
- (i) the Director may, if the total rock lobster catch taken pursuant to a licence during a prescribed period exceeded the rock lobster quota of the licence for that prescribed period, vary the conditions of the licence so as to decrease the quota—

- (i) where the catch exceeded the quota by not more than 20 kilograms of rock lobster—by one kilogram for each kilogram in excess of the quota; or
    - (ii) where the catch exceeded the quota by more than 20 kilograms but not more than 50 kilograms of rock lobster—by two kilograms for each kilogram in excess of the quota;
  - (j) any variation of a unit entitlement made under paragraph (g) must, if made during the prescribed period commencing on 1 November 2003, 1 July 2004 or 1 July 2005, be expressed to apply only for the prescribed period during which the variation is made;
  - (k) any variation of a rock lobster quota made under paragraph (i) must be expressed to apply only for the prescribed period during which the variation is made;
  - (l) unit entitlements and rock lobster quotas must not be varied except as provided by this regulation.
- (3) The holder of a licence in respect of the fishery must not, for the purpose of trade or business, engage in a fishing activity of a class that constitutes the fishery while the number of rock lobster units endorsed on the licence is less than 400.

Penalty: Division 6 fine.

Expiation fee: Division 6 fee.

- (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 a rock lobster quota on the licence; and
  - (b) the conduct constituting the offence involved the taking of more than 50 kilograms of rock lobster 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 rock lobster quota of the licence 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.

#### **14A—Individual catch quota system—Southern Zone**

- (1) In this regulation—

*the fishery* means the Southern Zone Rock Lobster Fishery;

*rock lobster quota*, in relation to a licence in respect of the fishery, means the maximum number of kilograms of rock lobster that may be lawfully taken by the holder of the licence during a licence period, being the product of—

- (a) the unit entitlement of that licence; and
- (b) the unit value for the fishery and that licence year,

subject to any variation of the rock lobster quota of the licence applying during that licence period;

*unit entitlement* means the number of rock lobster units for the time being allocated to a licence;

**unit value** means the number of kilograms of rock lobster determined by the Director to be the value of a rock lobster unit for the fishery and a licence period.

- (2) The Director may impose or vary conditions on licences in respect of the fishery fixing rock lobster quotas as follows:
- (a) all licences in respect of the fishery must be allocated numbers of rock lobster units to be determined by the Director having regard to—
    - (i) the respective rock lobster pot entitlements under the licences; and
    - (ii) the respective quantities of rock lobster taken pursuant to the licences during a specified period (as recorded on returns lodged under regulation 15 or the corresponding regulation previously in force);
  - (b) the numbers of rock lobster units allocated to the licences may be varied by the Director for succeeding licence periods up until (and including) the licence period expiring in 1998 so as progressively to bring the number of rock lobster units allocated to each licence into relationship only with the rock lobster pot entitlement under the licence;
  - (c) the Director must, on the commencement of each licence period, determine the number of kilograms of rock lobster that is to be the value of a rock lobster unit for the fishery and the licence period;
  - (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 and decrease the unit entitlement of the other licence by a corresponding number of units;
  - (e) the Director may, if the total rock lobster catch taken pursuant to a licence during a licence period exceeded the rock lobster quota of the licence for that licence period, vary the conditions of the licence so as to decrease the quota—
    - (i) where the catch exceeded the quota by not more than 20 kilograms of rock lobster—by one kilogram for each kilogram in excess of the quota; or
    - (ii) where the catch exceeded the quota by more than 20 kilograms but not more than 50 kilograms of rock lobster—by two kilograms for each kilogram in excess of the quota;
  - (f) any variation of—
    - (i) a unit entitlement made pursuant to paragraph (d); or
    - (ii) a rock lobster quota made pursuant to paragraph (e),must be expressed to apply only for the licence period during which the variation is made;
  - (g) unit entitlements and rock lobster quotas must not be varied except as provided by this regulation.

(3) Where—

- (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 a rock lobster quota on the licence; and
- (b) the conduct constituting the offence involved the taking of more than 50 kilograms of rock lobster 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 rock lobster quota of the licence for three licence periods following the conviction by one kilogram for each kilogram in excess of the quota for the licence period during which the offence was committed.

#### **14B—Individual giant crab catch quota system**

(1) In this regulation—

***giant crab*** means giant crab (*Pseudocarcinus gigas*);

***giant crab quota***—

- (a) in relation to a licence in respect of a rock lobster fishery—means the maximum number of kilograms of giant crab that may be lawfully taken by the holder of the licence during a licence period, being the product of—
  - (i) the unit entitlement of that licence; and
  - (ii) the unit value for the fishery and that licence period,

subject to any variation of the giant crab quota of the licence applying during that licence period;

- (b) in relation to a licence in respect of the Miscellaneous Fishery—has the same meaning as in regulation 11 of the *Scheme of Management (Miscellaneous Fishery) Regulations 2000*;

***Miscellaneous Fishery*** means the fishery of that name constituted by the *Scheme of Management (Miscellaneous Fishery) Regulations 2000*;

***unit entitlement***—

- (a) in relation to a licence in respect of a rock lobster fishery—means the number of giant crab units for the time being allocated to the licence;
- (b) in relation to a licence in respect of the Miscellaneous Fishery—has the same meaning as in regulation 11 of the *Scheme of Management (Miscellaneous Fishery) Regulations 2000*;

***unit value*** means the number of kilograms of giant crab determined by the Director to be the value of a giant crab unit for a rock lobster fishery and a licence period.

(2) For the purposes of the formula set out in subregulation (3)(a), the following fishing periods are prescribed:

- (a) in relation to the Northern Zone Rock Lobster Fishery—
  - (i) the period commencing on 1 January 1997 and ending on 31 May 1997; and

- (ii) the period commencing on 1 November 1997 and ending on 31 May 1998; and
    - (iii) the period commencing on 1 November 1998 and ending on 31 May 1999; and
    - (iv) the period commencing on 1 November 1999 and ending on 31 May 2000;
  - (b) in relation to the Southern Zone Rock Lobster Fishery—
    - (i) the period commencing on 1 January 1997 and ending on 30 April 1997; and
    - (ii) the period commencing on 1 October 1997 and ending on 30 April 1998; and
    - (iii) the period commencing on 1 October 1998 and ending on 30 April 1999; and
    - (iv) the period commencing on 1 October 1999 and ending on 30 April 2000.
- (3) The Director may impose or vary conditions on licences in respect of a rock lobster fishery imposing or varying giant crab quotas (and may vary conditions on licences in respect of the Miscellaneous Fishery varying giant crab quotas) as follows:
  - (a) on the commencement of this regulation a licence referred to in Schedule 4 may be allocated a number of giant crab units determined in accordance with the following formula:
$$A = \frac{B \times 350}{C}$$
where—

**A** is the number of giant crab units to be allocated to the licence (rounded up to two decimal points)

**B** is the aggregate number of kilograms of giant crab taken pursuant to the licence during prescribed fishing periods (as recorded on completed returns lodged under regulation 15 before 31 May 2001)

**C** is the aggregate number of kilograms of giant crab taken pursuant to licences in respect of the fishery specified in Schedule 4 during prescribed fishing periods (as recorded on completed returns lodged under regulation 15 before 31 May 2001);
  - (b) if the aggregate number of giant crab units allocated to licences in respect of a rock lobster fishery under paragraph (a) is less than 350, an additional number of units equal to the difference between the aggregate number allocated under that paragraph and 350 may be allocated to those licences, and in that case the conditions of each licence must be varied so as to increase the unit entitlement of the licence by a number of units that bears to the aggregate number of units to be allocated under this paragraph the same proportion as the number of units allocated to that licence under paragraph (a) bears to the aggregate number of units allocated to licences in respect of the fishery under that paragraph;

- (c) during the licence period ending on 30 June 2002, the conditions of each licence in respect of a rock lobster fishery endorsed with a condition fixing a giant crab quota on the licence must be varied so as to reduce the quota of the licence for that licence period by one kilogram for each kilogram of giant crab taken pursuant to the licence during the period commencing on 1 July 2001 and ending on 14 January 2002 (as recorded on completed returns lodged under regulation 15);
- (d) the Director must, on the commencement of this regulation, determine the number of kilograms of giant crab that is to be the value of a giant crab unit for a rock lobster fishery and the licence period ending on 30 June 2002;
- (e) the Director must, on the commencement of each licence period, determine the number of kilograms of giant crab that is to be the value of a giant crab unit for a rock lobster fishery and the licence period;
- (f) on application made to the Director by the holders of any two licences in respect of the same rock lobster fishery endorsed with conditions fixing giant crab quotas on the licences, the conditions of the licences may be varied so as to increase the unit entitlement of one of the licences and decrease the unit entitlement of the other licence by a corresponding number of units;
- (g) on application made to the Director by the holder of a licence in respect of the Northern Zone Rock Lobster Fishery endorsed with a condition fixing a giant crab quota on the licence (the *first licence*) and the holder of a licence in respect of the Miscellaneous Fishery endorsed with a condition fixing a giant crab quota on the licence in relation to the Northern Zone (the *second licence*)—
  - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement of that licence and the conditions of the second licence may be varied so as to increase the unit entitlement of that licence in respect of the Northern Zone by a corresponding number of units; or
  - (ii) the conditions of the first licence may be varied so as to increase the unit entitlement of that licence and the conditions of the second licence may be varied so as to decrease the unit entitlement of that licence in respect of the Northern Zone by a corresponding number of units;
- (h) on application made to the Director by the holder of a licence in respect of the Southern Zone Rock Lobster Fishery endorsed with a condition fixing a giant crab quota on the licence (the *first licence*) and the holder of a licence in respect of the Miscellaneous Fishery endorsed with a condition fixing a giant crab quota on the licence in relation to the Southern Zone (the *second licence*)—
  - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement of that licence and the conditions of the second licence may be varied so as to increase the unit entitlement of that licence in respect of the Southern Zone by a corresponding number of units; or

- (ii) the conditions of the first licence may be varied so as to increase the unit entitlement of that licence and the conditions of the second licence may be varied so as to decrease the unit entitlement of that licence in respect of the Southern Zone by a corresponding number of units;
  - (i) the Director may, if the total giant crab catch taken pursuant to a licence in respect of a rock lobster fishery during a licence period exceeded the giant crab quota of the licence for that licence period, vary the conditions of the licence so as to decrease the quota—
    - (i) if the catch exceeded the quota by not more than 20 kilograms of giant crab—by one kilogram for each kilogram in excess of the quota; or
    - (ii) if the catch exceeded the quota by more than 20 kilograms but not more than 50 kilograms—by two kilograms for each kilogram in excess of the quota;
  - (j) any variation of a giant crab quota made under paragraph (i) must be expressed to apply only for the licence period during which the variation is made;
  - (k) unit entitlements and giant crab quotas must not be varied except as provided by this regulation or the *Scheme of Management (Miscellaneous Fishery) Regulations 2000*.
- (4) If—
- (a) a court convicts the holder of a licence in respect of a rock lobster fishery of an offence of contravening a condition of the licence imposing a giant crab quota on the licence; and
  - (b) the conduct constituting the offence involved the taking of more than 50 kilograms of giant crab 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 giant crab quota of the licence for three licence periods following the conviction by one kilogram for each kilogram in excess of the quota for the licence period during which the offence was committed.

- (5) An application under subregulation (3)(f), (g) or (h) must be made in a manner and form approved by the Director.
- (6) A variation of a unit entitlement under subregulation (3)(f), (g) or (h) cannot take effect before 1 July 2002.

#### **14C—Rock lobster taken in Northern Zone to be landed whole within the State**

The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must ensure that rock lobster taken pursuant to the licence—

- (a) is landed whole; and
- (b) is landed within the State.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

#### **14D—Disposal of rock lobster—Northern Zone**

- (1) Subject to subregulation (2), the holder of a licence in respect of the Northern Zone Rock Lobster Fishery must ensure that all rock lobster taken pursuant to the licence is consigned or delivered to a registered fish processor.  
Penalty: Division 6 fine.  
Expiation fee: Division 9 fee.
- (2) If any rock lobster are found to be dead when they are landed, the holder of the licence may, instead of consigning or delivering the rock lobster as required by subregulation (1), retain the rock lobster for a non-commercial purpose provided that the total number of rock lobster retained by the holder of the licence for such a purpose does not exceed—
  - (a) 2 rock lobster landed on the same day; or
  - (b) 30 rock lobster landed in the same licence period.

#### **14E—Catch and disposal records—Northern Zone**

- (1) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery or the registered master of a registered boat from which rock lobster is taken pursuant to such a licence must ensure that—
  - (a) at least 2 hours before the rock lobster is removed from the boat, the Director is notified by telephone of—
    - (i) the name of the registered fish processor to whom the rock lobster is to be consigned or delivered; and
    - (ii) the location and time at which the rock lobster is to be removed from the boat; and
    - (iii) the number (if any) of rock lobster that are to be retained by the holder of the licence for a non-commercial purpose; and
  - (b) if, after the Director is notified under paragraph (a), a decision is made to consign or deliver the rock lobster to a different registered fish processor, the Director is immediately notified by telephone of the name of that registered fish processor.
- (2) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery or the registered master of a boat from which rock lobster is taken pursuant to such a licence must comply with the following provisions:
  - (a) before the end of the day on which the rock lobster is taken, he or she must complete Part A of a NZRL-CDR form using a blue or black ballpoint pen;
  - (b) before the rock lobster is removed from the boat, he or she must complete Part B of the NZRL-CDR form using a blue or black ballpoint pen;
  - (c) he or she must ensure—
    - (i) that the rock lobster to which a completed NZRL-CDR form relates that is to be consigned or delivered to the registered premises of the fish processor specified on the form is transported in bins of a kind approved by the Director; and

- (ii) that before a bin containing rock lobster is removed from the boat, the bin is sealed with a tag of a kind approved by the Director; and
  - (iii) that if a tag is broken while a bin is being sealed—
    - (A) the bin is sealed with a replacement tag; and
    - (B) the broken tag is attached to the bin by threading it through the replacement tag; and
    - (C) the number of the replacement tag is recorded on the NZRL-CDR form; and
  - (iv) if a tag is lost—that the Director is immediately notified of the loss;
  - (d) he or she must ensure that the white, blue and green copies of a completed NZRL-CDR form that relates to rock lobster that is to be consigned or delivered to a registered fish processor are transported to the registered premises of the fish processor together with the rock lobster;
  - (e) he or she must ensure that the white and blue copies of a completed NZRL-CDR form that relates only to rock lobster that is to be retained by the holder of the licence for a non-commercial purpose are delivered to the Director within 7 days of the removal of the rock lobster from the boat;
  - (f) he or she must ensure that the yellow copies of a completed NZRL-CDR form and the CDR book are kept on board the boat until the CDR book is completed;
  - (g) he or she must deliver a completed CDR book to the Director within 14 days of its completion.
- (3) If a provision of subregulation (1) or (2) is not complied with, the holder of the licence is guilty of an offence.  
Penalty: Division 6 fine.  
Expiation fee: Division 9 fee.
- (4) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must keep green copies of completed NZRL-CDR forms relating to rock lobster taken pursuant to the licence for a period of 5 years.  
Penalty: Division 6 fine.  
Expiation fee: Division 9 fee.

## **15—Furnishing of returns**

- (1) The holder of a licence in respect of a rock lobster 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.

Expiation fee: Division 9 fee.

- (2) Where the holder of a licence in respect of a rock lobster fishery takes no fish 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 fish were taken.
- (3) Where a rock lobster fishery has been closed for a whole calendar month, the holder of a licence need not furnish a return for that month in respect of rock lobster.

### **16—Copies of returns must be made**

The holder of a licence in respect of a rock lobster fishery must—

- (a) make a copy of each return that he or she fills out pursuant to these regulations before the return is sent 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.

### **17—Victorian licences**

A person who is the holder of a licence in respect of the Southern Zone Rock Lobster Fishery must—

- (a) where he or she becomes the holder of a Victorian licence, give written notice within 14 days informing the Director of that fact; or
- (b) where he or she ceases to hold a Victorian licence, give written notice within 14 days informing the Director of that fact.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

### **18—Sale of rock lobster during closed season**

- (1) A holder of a licence in respect of a rock lobster fishery must not sell live rock lobster during a closed season for that fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (2) It is a defence to a charge of an offence against subregulation (1) if it is proved that the defendant did not take the rock lobster to which the charge relates in the zone for the rock lobster fishery in respect of which he or she holds a licence.

## Schedule 1—Fish prescribed for rock lobster fisheries

The following fish are specified for the rock lobster fisheries:

### Scalefish

- Anchovy (*Engraulis australis*)
- Barracouta (*Thyrsites atun*)
- Bluethroated wrasse (*Notolabrus tetricus*)
- Bream (*Acanthopagrus butcheri*)
- Cod (marine species) (Family Moridae)
- Dory (Family Zeidae)
- Flathead (Family Platycephalidae)
- Flounder (Family Pleuronectidae) (Family Bothidae)
- Garfish (*Hyporhamphus melanochir*)
- Horse mackerel (*Trachurus declivis*)
- Leather jacket (Family Aluteridae)
- Ling (*Genypterus blacodes*)
- Mackerel (*Scomber australasicus*)
- Morwong (Family Cheilodactylidae)
- Mullet (Family Mugilidae)
- Mulloway (*Argyrosomus hololepidotus*)
- Nannygai, Red snapper, Swallowtail (Family Berycidae)
- Pilchard (*Sardinops neopilchardus*)
- Red mullet (*Upeneichthys porosus*)
- Salmon (*Arripis truttaceus*)
- Snapper (*Chrysophrys auratus*)
- Snook (*Sphyraena novaehollandiae*)
- Sole (*Aserragodes haackeanus*)
- Sweep (*Scorpius aequipinnis*)
- Tommy ruff (*Arripis georgianus*)
- Trevalla (*Hyperoglyphe antarctica*)
- Trevally (*Usacaranx georgianus*)
- Whiting (Family Sillaginidae)

### Crustaceans

- Crab, giant (*Pseudocarcinus gigas*)
- Crab, velvet (*Nectocarcinus tuberculatus*)

Molluscs

- Cockle (Suborder Teledonta)
- Cuttlefish (*Sepia* spp.)
- Mussels (*Mytilus* spp.)
- Octopus (*Octopus* spp.)
- Oyster (Family Ostridae)
- Scallop (Family Pectinidae)
- Squid
  - calamary (*Sepioteuthis australis*)
  - arrow (*Nototodarus gouldi*)

Annelids

- Beachworm
  - Bloodworm
  - Tubeworm
- } (Class Polychaeta)

Shark

- All species other than white pointer shark  
(*Carcharodon carcharias*)
  - Skate
  - Rays
- } (Class Elasmobranchii)

## Schedule 2—Fees

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

- (a) on application for the renewal of a licence in respect of the Northern Zone Rock Lobster Fishery—
  - (i) in the case of a licence that will, on its renewal, be subject to a condition limiting the holder of the licence to the taking of rock lobster, octopus and giant crab \$13 330
  - (ii) in the case of a licence that will, on its renewal, be subject to a condition limiting the holder of the licence to the taking of—
    - (A) rock lobster, octopus and giant crab; and
    - (B) fish of a species (other than octopus or giant crab) prescribed by Schedule 1 for the purpose of bait only \$13 830
  - (iii) in any other case \$14 737

An additional fee of an amount obtained by multiplying \$88 by the number equal to the rock lobster pot entitlement fixed by condition of a licence under regulation 14 is payable.

On application for the renewal of a licence endorsed with a condition fixing a giant crab quota on the licence, an additional fee of an amount obtained by multiplying \$29.78 by the number of giant crab units allocated to the licence is payable.

- (ab) on application for the renewal of a licence in respect of the Southern Zone Rock Lobster Fishery—
- (i) in the case of a licence that will, on its renewal, be subject to a condition limiting the holder of the licence to the taking of rock lobster, octopus and giant crab \$7 640
- (ii) in the case of a licence that will, on its renewal, be subject to a condition limiting the holder of the licence to the taking of—
- (A) rock lobster, octopus and giant crab; and
- (B) fish of a species (other than octopus or giant crab) prescribed by Schedule 1 for the purpose of bait only \$8 140
- (iii) in any other case \$9 047
- An additional fee of an amount obtained by multiplying \$96 by the number equal to the rock lobster pot entitlement fixed by condition of a licence under regulation 14 is payable.
- On application for the renewal of a licence endorsed with a condition fixing a giant crab quota on the licence, an additional fee of an amount obtained by multiplying \$29.78 by the number of giant crab units allocated to the licence is payable.
- (b) on application for transfer of a licence in respect of either rock lobster fishery \$300
- (c) on application under regulation 14(1)(d) by the holder of a licence in respect of a rock lobster fishery to vary a condition of the licence so as to decrease the rock lobster pot entitlement under the licence and increase the rock lobster pot entitlement under one or more other licences in respect of that fishery—\$100 plus a fee of an amount obtained by multiplying \$20 by the number of licences the rock lobster pot entitlement of which is to be increased.
- (ca) on application under regulation 14AA(2)(g) by the holder of a licence in respect of the Northern Zone Rock Lobster Fishery to vary the conditions of the licence so as to decrease the unit entitlement of the licence in respect of rock lobster and increase the unit entitlement of one or more other licences in respect of the Fishery—\$100 plus a fee of an amount obtained by multiplying \$20 by the number of licences the unit entitlements of which are to be increased.
- (d) on application under regulation 14B by the holder of a licence in respect of a rock lobster fishery to vary the conditions of the licence so as to decrease the unit entitlement of the licence in respect of giant crab and increase the unit entitlement of one or more licences in respect of that fishery or the Miscellaneous Fishery—\$100 plus a fee of an amount obtained by multiplying \$20 by the number of licences the unit entitlements of which are to be increased.
- (2) The fees prescribed in relation to an application under regulation 14(1)(d) are not payable if the application relates to a licence in respect of the Northern Zone Rock Lobster Fishery and, at the same time, an application under regulation 14AA(2)(g) is made in respect of the same licence and the fees prescribed in relation to that application are paid.

### **Schedule 3—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, date of birth, address (residential and postal) and telephone number of the transferee.
- 4 The price to be paid for the transfer of—
  - (a) the licence; and
  - (b) any boat, equipment, registration or any 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, 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
  - (b) 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 legislation relating to fishing pending or likely to be commenced against the transferee or director in a court of a State or Territory of the Commonwealth.
- 10 Details in respect of any of the statements made by the transferee in respect of the matters referred to in clause 9.

## **Schedule 4—Licences to which giant crab units may be allocated**

Northern Zone Rock Lobster Fishery licence number

N009

N014

N039

N040

N056

N097

Southern Zone Rock Lobster Fishery licence number

S036

S049

S052

S053

S074

S077

S078

S097

S115

S117

S119

S122

S127

S134

S152

S164

S165

S167

S175

S176

S189

S193

S217

S241

## 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 (Rock Lobster Fisheries) Regulations 1991*

### Principal regulations and variations

New entries appear in bold.

| Year        | No       | Reference                            | Commencement                           |
|-------------|----------|--------------------------------------|--|
| 1991        | 107      | <i>Gazette 27.6.1991 p2143</i>       | 27.6.1991: r 2                         |
| 1992        | 112      | <i>Gazette 25.6.1992 p1942</i>       | 25.6.1992: r 2                         |
| 1993        | 128      | <i>Gazette 24.6.1993 p2077</i>       | 24.6.1993: r 2                         |
| 1994        | 94       | <i>Gazette 23.6.1994 p1806</i>       | 23.6.1994: r 2                         |
| 1994        | 154      | <i>Gazette 1.9.1994 p686</i>         | 1.9.1994: r 2                          |
| 1994        | 166      | <i>Gazette 29.9.1994 p883</i>        | 1.10.1994: r 2                         |
| 1994        | 175      | <i>Gazette 20.10.1994 p1248</i>      | 20.10.1994: r 2                        |
| 1995        | 143      | <i>Gazette 29.6.1995 p3151</i>       | 29.6.1995: r 2                         |
| 1996        | 156      | <i>Gazette 20.6.1996 p3013</i>       | 20.6.1996: r 2                         |
| 1996        | 162      | <i>Gazette 27.6.1996 p3164</i>       | 27.6.1996: r 2                         |
| 1996        | 223      | <i>Gazette 26.9.1996 p1245</i>       | 26.9.1996: r 2                         |
| 1997        | 127      | <i>Gazette 13.5.1997 p1955</i>       | 13.5.1997: r 2                         |
| 1998        | 136      | <i>Gazette 11.6.1998 p2547</i>       | 11.6.1998: r 2                         |
| 1998        | 159      | <i>Gazette 30.7.1998 p297</i>        | 1.9.1998: r 2                          |
| 1999        | 139      | <i>Gazette 1.7.1999 p47</i>          | 1.7.1999: r 2                          |
| 2000        | 139      | <i>Gazette 22.6.2000 p3365</i>       | 22.6.2000: r 2                         |
| 2001        | 139      | <i>Gazette 28.6.2001 p2443</i>       | 28.6.2001: r 2                         |
| 2001        | 252      | <i>Gazette 6.12.2001 p5297</i>       | 31.12.2001: r 2                        |
| 2001        | 259      | <i>Gazette 13.12.2001 p5412</i>      | 15.1.2002: r 2                         |
| 2002        | 47       | <i>Gazette 14.6.2002 p2153</i>       | Pt 9 (rr 32—35)—14.6.2002: r 2         |
| 2002        | 204      | <i>Gazette 31.10.2002 p4009</i>      | 31.10.2002: r 2                        |
| 2003        | 141      | <i>Gazette 5.6.2003 p2407</i>        | Pt 11 (rr 28—30)—5.6.2003: r 2         |
| 2003        | 221      | <i>Gazette 30.10.2003 p3953</i>      | 30.10.2003: r 2                        |
| 2003        | 243      | <i>Gazette 11.12.2003 p4449</i>      | 11.12.2003: r 2                        |
| <b>2004</b> | <b>9</b> | <b><i>Gazette 19.2.2004 p535</i></b> | <b>Pt 10 (rr 49—53)—19.2.2004: r 2</b> |

## 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 28   | 5.6.2003                |
| r 2                            | <i>omitted under the Legislation Revision and Publication Act 2002</i> | <i>19.2.2004</i>        |
| r 4                            |  |                         |
| r 4(1)                         |  |                         |
| <i>the Act</i>                 | <i>deleted by 221/2003 r 4(1)</i>                                      | <i>30.10.2003</i>       |
| Act                            | inserted by 221/2003 r 4(1)  | 30.10.2003              |
| CDR book                       | inserted by 221/2003 r 4(1)  | 30.10.2003              |
| closed season                  | varied by 139/2001 r 3   | 28.6.2001               |
| <b>Corporations Act</b>        | <b>inserted by 9/2004 r 49(1)</b>                                      | <b>19.2.2004</b>        |
| <b>current company extract</b> | <b>inserted by 9/2004 49(1)</b>  | <b>19.2.2004</b>        |
| <i>director</i>                | <i>substituted by 47/2002 r 33(a)</i>                                  | <i>14.6.2002</i>        |
|                                | <b><i>deleted by 9/2004 r 49(1)</i></b>                                | <b><i>19.2.2004</i></b> |
| licence period                 | inserted by 143/1995 r 3   | 29.6.1995               |
|                                | substituted by 136/1998 r 3  | 11.6.1998               |
| non-commercial purpose         | inserted by 221/2003 r 4(2)  | 30.10.2003              |
| NZRL-CDR form                  | inserted by 221/2003 r 4(3)  | 30.10.2003              |
| <i>renewal fee</i>             | <i>deleted by 252/2001 r 3</i>   | <i>31.12.2001</i>       |
| rock lobster                   | varied by 154/1994 r 3   | 1.9.1994                |
| SARDI                          | inserted by 128/1993 r 3   | 24.6.1993               |
| r 4(2)                         | varied by 47/2002 r 33(b)  | 14.6.2002               |
|                                | <b>substituted by 9/2004 r 49(2)</b>                                   | <b>19.2.2004</b>        |
| r 4(3)                         | <i>varied by 47/2002 r 33(d)</i>                                       | <i>14.6.2002</i>        |
| r 4(3)                         | <i>(a) deleted by 47/2002 r 33(c)</i>                                  | <i>14.6.2002</i>        |
|                                | <b><i>deleted by 9/2004 r 49(2)</i></b>                                | <b><i>19.2.2004</i></b> |
| r 5                            |  |                         |
| r 5(2)                         | substituted by 162/1996 r 3  | 27.6.1996               |
|                                | varied by 223/1996 r 3(a)  | 26.9.1996               |
| r 5(3)                         | substituted by 162/1996 r 3  | 27.6.1996               |
|                                | varied by 223/1996 r 3(b)  | 26.9.1996               |
| r 6                            |  |                         |
| r 6(2)                         | varied by 252/2001 r 4   | 31.12.2001              |
| r 7                            | varied by 112/1992 r 3   | 25.6.1992               |
|                                | substituted by 143/1995 r 4  | 29.6.1995               |
|                                | substituted by 252/2001 r 5  | 31.12.2001              |
| r 8                            |  |                         |
| r 8(1)                         | varied by 143/1995 r 5(a)  | 29.6.1995               |

|                     |                                      |                   |
|---------------------|--------------------------------------|-------------------|
| r 8(4a)             | inserted by 159/1998 r 3             | 1.9.1998          |
| r 8(5)              | varied by 128/1993 r 4               | 24.6.1993         |
|                     | varied by 139/1999 r 3               | 1.7.1999          |
| r 8(6)              | substituted by 143/1995 r 5(b)       | 29.6.1995         |
|                     | substituted by 136/1998 r 4          | 11.6.1998         |
| r 8(7)              | substituted by 139/2001 r 4          | 28.6.2001         |
| r 8A                | inserted by 112/1992 r 4             | 25.6.1992         |
|                     | substituted by 128/1993 r 5          | 24.6.1993         |
|                     | substituted by 143/1995 r 6          | 29.6.1995         |
| r 9                 |                                      |                   |
| r 9(2)              | <i>deleted by 252/2001 r 6</i>       | <i>31.12.2001</i> |
| r 9(2a)             | <i>inserted by 166/1994 r 3</i>      | <i>1.10.1994</i>  |
|                     | <i>deleted by 252/2001 r 6</i>       | <i>31.12.2001</i> |
| r 9(5)              | (c) deleted by 112/1992 r 5          | 25.6.1992         |
|                     | <b>varied by 9/2004 r 50(1)</b>      | <b>19.2.2004</b>  |
| <b>r 9(6)</b>       | <b>varied by 9/2004 r 50(2)</b>      | <b>19.2.2004</b>  |
|                     | <b>(g) deleted by 9/2004 r 50(2)</b> | <b>19.2.2004</b>  |
| r 10                |                                      |                   |
| <b>r 10(1)</b>      | <b>varied by 9/2004 r 51</b>         | <b>19.2.2004</b>  |
| r 10(2)             | varied by 159/1998 r 4               | 1.9.1998          |
| <b>r 12</b>         | <b>substituted by 9/2004 r 52</b>    | <b>19.2.2004</b>  |
| r 14                |                                      |                   |
| r 14(1)             | varied by 112/1992 r 6               | 25.6.1992         |
|                     | varied by 166/1994 r 4(a)            | 1.10.1994         |
|                     | varied by 159/1998 r 5               | 1.9.1998          |
|                     | varied by 139/1999 r 4               | 1.7.1999          |
|                     | varied by 204/2002 r 3(a), (b)       | 31.10.2002        |
| r 14(1)             | (h) deleted by 204/2002 r 3(c)       | 31.10.2002        |
| r 14(1a)            | inserted by 221/2003 r 5             | 30.10.2003        |
| r 14(3)             | inserted by 166/1994 r 4(b)          | 1.10.1994         |
| r 14AA              | inserted by 221/2003 r 6             | 30.10.2003        |
| r 14AA(2)           | varied by 243/2003 r 4               | 11.12.2003        |
| r 14A               | inserted by 166/1994 r 5             | 1.10.1994         |
| r 14A(1)            |                                      |                   |
| rock lobster quota  | varied by 143/1995 r 7(a)            | 29.6.1995         |
| <i>licence year</i> | <i>deleted by 143/1995 r 7(b)</i>    | <i>29.6.1995</i>  |
| unit value          | varied by 143/1995 r 7(c)            | 29.6.1995         |
| r 14A(2)            | varied by 143/1995 r 7(d)—(h)        | 29.6.1995         |
| r 14A(3)            | varied by 143/1995 r 7(i), (j)       | 29.6.1995         |
| r 14B               | inserted by 139/2000 r 3             | 22.6.2000         |
|                     | substituted by 259/2001 r 3          | 15.1.2002         |
| rr 14C—14E          | inserted by 221/2003 r 7             | 30.10.2003        |
| r 15                |                                      |                   |

|         |   |                  |
|---------|---|------------------|
| r 15(1) | varied by 112/1992 r 7  | 25.6.1992        |
|         | varied by 128/1993 r 6  | 24.6.1993        |
|         | varied by 221/2003 r 8  | 30.10.2003       |
| r 16    | varied by 128/1993 r 7  | 24.6.1993        |
| r 17    | varied by 221/2003 r 9  | 30.10.2003       |
| r 18    |   |                  |
| r 18(1) | varied by 221/2003 r 10   | 30.10.2003       |
| Sch 1   | varied by 154/1994 r 4  | 1.9.1994         |
|         | varied by 162/1996 r 4  | 27.6.1996        |
| Sch 2   |   |                  |
| cl 1    | cl 1(1) substituted by 112/1992 r 8                                 | 25.6.1992        |
|         | cl 1(1) substituted by 128/1993 r 8                                 | 24.6.1993        |
|         | cl 1(1) substituted by 94/1994 r 3                                  | 23.6.1994        |
|         | cl 1(1) varied by 175/1994 r 3                                      | 20.10.1994       |
|         | cl 1(1) varied by 143/1995 r 8                                      | 29.6.1995        |
|         | cl 1(1) varied by 156/1996 r 3                                      | 20.6.1996        |
|         | cl 1(1) varied by 127/1997 r 3                                      | 13.5.1997        |
|         | cl 1(1) varied by 136/1998 r 5                                      | 11.6.1998        |
|         | cl 1(1) varied by 139/1999 r 5                                      | 1.7.1999         |
|         | cl 1(1) varied by 139/2000 r 4                                      | 22.6.2000        |
|         | cl 1(1) varied by 139/2001 r 5                                      | 28.6.2001        |
|         | cl 1(1) varied by 259/2001 r 4                                      | 15.1.2002        |
|         | cl 1(1) varied by 47/2002 r 34                                      | 14.6.2002        |
|         | cl 1(1) varied by 141/2003 r 29                                     | 5.6.2003         |
|         | cl 1(1) varied and redesignated as cl 1(1) by 221/2003 r 11(1), (2) | 30.10.2003       |
| cl 1(2) | inserted by 221/2003 r 11(2)  | 30.10.2003       |
| Sch 3   |   |                  |
| cl 9    | <b>substituted by 9/2004 r 53</b>                                   | <b>19.2.2004</b> |
| Sch 4   | deleted by 112/1992 r 9   | 25.6.1992        |
|         | inserted by 259/2001 r 5  | 15.1.2002        |

## **Transitional etc provisions associated with regulations or variations**

### ***No 112 of 1992***

#### **10—Transitional provision**

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

- (3) An additional fee of one-twelfth of the licence renewal fee prescribed by Schedule 2 of the principal regulations as in force immediately before the commencement of these regulations is payable on 1 September 1992 by each holder of a licence in respect of a rock lobster fishery in force on that date.
- (4) Where a fee payable under subregulation (3) is not paid by the due date, the fee may be recovered from the holder of the licence or the person who last held the licence as a debt due to the Crown.
- (5) In this regulation—  
*licence year* means the period from the date of expiry of licences in one year to the date of expiry of licences in the next year.

### ***No 128 of 1993***

#### **9—Transitional provision**

- (1) A licence renewal fee prescribed by Schedule 2 of the principal regulations as varied by these regulations applies in relation to a licence year commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 8, a licence renewal fee prescribed by Schedule 2 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year that commenced before the commencement of these regulations.
- (3) In this regulation—  
*licence year* means the period of 12 months from 1 November in any year.

### ***No 94 of 1994***

#### **4—Transitional provision**

- (1) A licence renewal fee prescribed by Schedule 2 of the principal regulations as varied by these regulations applies in relation to a licence year commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 3, a licence renewal fee prescribed by Schedule 2 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year that commenced before the commencement of these regulations.
- (3) In this regulation—  
*licence year* means the period of 12 months from 1 November in any year.

### ***No 143 of 1995***

#### **9—Transitional provision**

- (1) A licence renewal fee prescribed by Schedule 2 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 2 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 136 of 1998***

#### **6—Transitional provision**

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

### ***No 139 of 1999***

#### **6—Transitional provision**

- (1) A licence renewal fee prescribed by Schedule 2 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 2 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 139 of 2000***

#### **5—Transitional provision**

- (1) A fee prescribed by Schedule 2 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 2 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 139 of 2001*

**6—Transitional provision**

- (1) A fee prescribed by Schedule 2 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 5, a fee prescribed by Schedule 2 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)*

**35—Transitional provision**

- (1) A fee prescribed by Schedule 2 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 34, a fee prescribed by Schedule 2 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)*

**30—Transitional provision**

- (1) A fee prescribed by Schedule 2 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 29, a fee prescribed by Schedule 2 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     | —             |

**Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991—19.2.2004 to 23.6.2004**  
Appendix—Divisional penalties and expiation fees

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| <b>Division</b> | <b>Maximum imprisonment</b> | <b>Maximum fine</b> | <b>Expiation fee</b> |
|-----------------|-----------------------------|---------------------|----------------------|
| 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.*