

South Australia

Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 2006

under the *Fisheries Act 1982*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Constitution of fisheries
- 5 No further licences to be granted
- 6 Expiry of licence
- 7 Renewal of licence
- 8 Refund on surrender of licence
- 9 Transfer of licence
- 10 Registration of boats
- 11 Use of second registered boat
- 12 Obligation of registered master to notify Director of use of bait nets
- 13 Registration of masters
- 14 Revocation of registration
- 15 Rock lobster pot entitlement
- 16 Individual rock lobster catch quota system—Northern Zone
- 17 Individual rock lobster catch quota system—Southern Zone
- 18 Individual giant crab catch quota system
- 19 Rock lobster taken in Northern Zone to be landed whole within the State
- 20 Disposal of rock lobster and giant crab
- 21 Catch and disposal records (rock lobster)—Northern Zone
- 22 Catch and disposal records (rock lobster)—Southern Zone
- 23 Catch and disposal records (giant crab)—Southern Zone
- 24 Returns
- 25 Victorian licences
- 26 Sale of rock lobster during closed season

Schedule 1—Fish prescribed for rock lobster fisheries

Schedule 2—Fees

Schedule 3—Revocation of *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991*

Legislative history

1—Short title

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

Act means the *Fisheries Act 1982*;

bait net has the same meaning as in the *Fisheries (General) Regulations 2000*;

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;

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

GC-CDR book means the document issued by the Department containing GC-CDR forms;

GC-CDR form means the form produced by the Department entitled *Giant Crab Catch and Disposal Record*;

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

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

mesh net has the same meaning as in the *Fisheries (General) Regulations 2000*;

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 book means the document issued by the Department containing NZRL-CDR forms;

NZRL-CDR form means the form produced by the Department 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 Schedule 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 1 time for the purpose of taking rock lobster pursuant to the licence;

SARDI means the South Australian Research and Development Institute;

South Australian licence means a licence in respect of the Southern Zone Rock Lobster Fishery;

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;

SZRL1-CDR book means the document issued by the Department containing SZRL1-CDR forms;

SZRL1-CDR form means the form produced by the Department entitled *Southern Zone Rock Lobster Catch and Disposal Record*;

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.
- (3) 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.

4—Constitution of fisheries

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

5—No further licences 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 licences 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 licences may be granted in respect of the fishery.

6—Expiry of licence

A licence in respect of a rock lobster fishery expires on 30 June following the date of its last renewal.

7—Renewal of licence

- (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 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 2 less \$90; or
 - (ii) the first instalment of the renewal fee specified in Schedule 2, 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.

8—Refund on surrender of licence

If a licence in respect of a rock lobster fishery is surrendered, the Director must, on application made by the former licensee in a form approved by the Director, 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.
- (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 24 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 2.
- (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 (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 over exploit 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—
 - (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 registration of the boat, the Director must be satisfied that—
 - (a) the applicant holds a licence in respect of the fishery; and
 - (b) 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
 - (c) no more than 1 other boat is registered by endorsement of the applicant's licence in respect of the fishery.

11—Use of second registered boat

- (1) If 2 boats are registered by endorsement of a licence in respect of a 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.

Maximum penalty: \$4 000.

- (2) A 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—Obligation of registered master to notify Director of use of bait nets

Before a bait net registered for use pursuant to a licence in respect of a rock lobster fishery is set in waters from a registered boat used pursuant to the licence, the registered master of the registered boat must ensure that the Director is notified by telephone of—

- (a) his or her name; and
- (b) the number of the licence pursuant to which the bait net is to be used; and
- (c) the location at which the bait net is to be set; and
- (d) the time at which the bait net is to be set; and
- (e) the period of time for which the bait net is to be left in waters; and
- (f) the species of fish that are to be targeted using the bait net.

Maximum penalty: \$125.

Expiation fee: \$55.

13—Registration of masters

An application to register a person as the master of a boat used pursuant to a licence in respect of a rock lobster fishery 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—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—
 - (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.

15—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 100 and not less than 20;
 - (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), on joint application made to the Director by the holders of any 2 licences in respect of the same fishery, the rock lobster pot entitlements under the licences may be varied so as to increase the entitlement under 1 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);
- (f) 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;
- (g) despite any other provisions of this regulation, if 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;
- (h) despite 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 20 and, in that event, the entitlement under that licence may, until the licence is transferred, continue to be fixed at a number less than 20 but may not be decreased subsequently.

- (2) An application under subregulation (1)(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—
 - (i) the licences in respect of which the application is made; and
 - (ii) the appropriate fee specified in Schedule 2.
- (3) 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 20.
- Maximum penalty: \$4 000.
Expiation fee: \$315.
- (4) The holder of a licence in respect of the Southern 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 40.
- Maximum penalty: \$4 000.
Expiation fee: \$315.
- (5) 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.
- (6) If 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 1 rock lobster pot for each rock lobster pot used in excess of the entitlement.

16—Individual rock lobster catch quota system—Northern Zone

- (1) In this regulation—
- fishery*** means the Northern Zone Rock Lobster Fishery;
- prescribed period*** means the period of 12 months commencing on 1 July in any 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 lawfully be 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 July 2007 and on or before 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;
 - (b) 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;
 - (c) on joint 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 under 1 of the licences and decrease the unit entitlement under the other licence by a corresponding number of units;
 - (d) if—
 - (i) a variation of rock lobster pot entitlements is made as referred to in regulation 15(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 1 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;
 - (e) 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) if the catch exceeded the quota by not more than 20 kilograms of rock lobster—by 1 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 of rock lobster—by 2 kilograms for each kilogram in excess of the quota;
 - (f) a variation of a rock lobster quota made under paragraph (e) must be expressed to apply only for the prescribed 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) An application under subregulation (2)(c) 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—
 - (i) the licences in respect of which the application is made; and
 - (ii) the appropriate fee specified in Schedule 2.
- (4) 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 320.
- Maximum penalty: \$4 000.
Expiation fee: \$315.
- (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 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 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—Individual rock lobster catch quota system—Southern Zone

- (1) In this regulation—

the fishery means the Southern Zone Rock Lobster Fishery;

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

rock lobster quota, in relation to a licence in respect of the fishery, means the maximum number of kilograms of rock lobster that may lawfully be 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 vary conditions on licences in respect of the fishery fixing rock lobster quotas as follows:
- (a) 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;
 - (b) on joint 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 under 1 of the licences and decrease the unit entitlement under the other licence by a corresponding number of units;
 - (c) 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) if the catch exceeded the quota by not more than 20 kilograms of rock lobster—by 1 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 of rock lobster—by 2 kilograms for each kilogram in excess of the quota;
 - (d) any variation of—
 - (i) a unit entitlement made pursuant to paragraph (b); or
 - (ii) a rock lobster quota made pursuant to paragraph (c),must be expressed to apply only for the prescribed period during which the variation is made;
 - (e) unit entitlements and rock lobster quotas must not be varied except as provided by this regulation.
- (3) An application under subregulation (2)(b) must—
- (a) be made in a form approved by the Director; and
 - (b) be signed by the applicants; and
 - (c) be accompanied by—
 - (i) the licences in respect of which the application is made; and
 - (ii) the appropriate fee specified in Schedule 2.
- (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 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.

18—Individual giant crab catch quota system

- (1) In this regulation—

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 lawfully be 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 *Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations 2000*;

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

prescribed period—

- (a) in relation to the Northern Zone Rock Lobster Fishery—means the period of 12 months commencing on 1 November in any year;
- (b) in relation to the Southern Zone Rock Lobster Fishery—means the period of 12 months commencing on 1 October in any year;

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 *Fisheries (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) 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) the Director must, on or before the commencement of each prescribed 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 prescribed period;

- (b) on joint application made to the Director by the holders of any 2 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 under 1 of the licences and decrease the unit entitlement under the other licence by a corresponding number of units;
- (c) on joint 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;
- (d) on joint 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;
- (e) the Director may, if the total giant crab catch taken pursuant to a licence in respect of a rock lobster fishery during a prescribed period exceeded the giant crab quota of the licence for that prescribed 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 1 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 2 kilograms for each kilogram in excess of the quota;
 - (f) a variation of a giant crab quota made under paragraph (e) must be expressed to apply only for the prescribed period during which the variation is made;
 - (g) unit entitlements and giant crab quotas must not be varied except as provided by this regulation or the *Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations 2000*.
- (3) 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 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.
- (4) An application under subregulation (2)(b), (c) or (d) must—
 - (a) be made in a form approved by the Director; and
 - (b) be signed by the applicants; and
 - (c) be accompanied by—
 - (i) the licences in respect of which the application is made; and
 - (ii) the appropriate fee specified in Schedule 2.

19—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.

Maximum penalty: \$4 000.

Expiation fee: \$315.

20—Disposal of rock lobster and giant crab

- (1) Subject to subregulation (2), the holder of a licence in respect of a rock lobster fishery must ensure that all rock lobster and giant crab taken pursuant to the licence are consigned or delivered to a registered fish processor.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (2) If a rock lobster is found to be dead when it is landed, the holder of the licence may retain the dead landed rock lobster for a non-commercial purpose, provided that—
- (a) there are no more than 2 such rock lobster at any time on the boat on which they are landed; and
 - (b) the total number of such rock lobster retained by the holder of a licence in a licence period does not exceed 30.

21—Catch and disposal records (rock lobster)—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 1 hour 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;
 - (b) before the rock lobster is removed from the boat, he or she must complete Part B of the NZRL-CDR form;
 - (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 Parts B and C 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 NZRL-CDR book are kept on board the boat until all the NZRL-CDR forms in the NZRL-CDR book are 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.
Maximum penalty: \$4 000.
Expiation fee: \$315.
- (4) The holder of a licence in respect of the Northern Zone Rock Lobster Fishery must keep green copies of Parts B and C of completed NZRL-CDR forms relating to rock lobster taken pursuant to the licence for a period of 5 years.
Maximum penalty: \$4 000.
Expiation fee: \$315.

22—Catch and disposal records (rock lobster)—Southern Zone

- (1) Subject to subregulation (2), if rock lobster is taken pursuant to a South Australian licence, the holder of the licence or the registered master of the registered boat from which the rock lobster was taken must ensure that—
- (a) at least 1 hour before the rock lobster is removed from the registered boat from which it was taken, the Director is notified by telephone of—
 - (i) the name of the person making the telephone call; and
 - (ii) the number of the licence pursuant to which the rock lobster was taken; and
 - (iii) the certification station at which the rock lobster is to be weighed; and
 - (iv) the estimated time of arrival of the rock lobster at that certification station; and
 - (v) whether any rock lobster is to be stored on board a registered boat used pursuant to the licence after the boat is landed; and

- (b) the Director is notified of any change in the estimated time of arrival of the rock lobster at the certification station if it appears likely to the holder of the licence or the registered master that the rock lobster will arrive at the certification station earlier than the estimated time previously notified to the Director or more than 30 minutes after that time.
- (2) Subregulation (1) does not apply if the rock lobster is to be weighed at a certification station nominated by the Director by notice in the Gazette between the hours specified in the notice.
- (3) The holder of a South Australian licence or the registered master of a registered boat used pursuant to a South Australian licence must comply with the following provisions:
 - (a) if rock lobster taken pursuant to a Victorian licence is on board a registered boat used pursuant to the South Australian licence when the boat enters the Southern Zone, he or she must immediately complete Part C of a SZRL1-CDR form in respect of the rock lobster;
 - (b) before rock lobster taken pursuant to the South Australian licence is removed from the registered boat from which it was taken, he or she must complete Part A of a SZRL1-CDR form in respect of the rock lobster;
 - (c) immediately after a registered boat used pursuant to the South Australian licence is landed, he or she must remove from the boat any rock lobster that is not to be stored on the boat;
 - (d) he or she must ensure that rock lobster removed from a registered boat is delivered to the nearest certification station within 10 minutes of being removed from the boat;
 - (e) immediately after rock lobster taken pursuant to the South Australian licence is delivered to the certification station, he or she must weigh the rock lobster and complete Part B of the SZRL1-CDR form in respect of the rock lobster;
 - (f) immediately after rock lobster taken pursuant to a Victorian licence is delivered to the certification station, he or she must weigh the rock lobster and complete Part D of the SZRL1-CDR form in respect of the rock lobster;
 - (g) before the rock lobster is removed from the certification station, he or she must deposit the white copy of the SZRL1-CDR form completed in respect of the rock lobster in the locked container provided for that purpose;
 - (h) subject to paragraph (j), he or she must ensure that the SZRL1-CDR book is kept on board the registered boat from which the rock lobster was taken until all the SZRL1-CDR forms in the book are completed;
 - (i) he or she must deliver a completed SZRL1-CDR book to the Director within 14 days of its completion;
 - (j) if, at the end of a fishing season, a SZRL1-CDR book kept on board a registered boat has not been completed, he or she must return the book to the Director within 14 days after the end of the fishing season.

- (4) If subregulation (1) or (3) is not complied with, the holder of the licence is guilty of an offence.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (5) In this regulation—

fishing season means a period commencing on 1 October in any year and ending on 30 April in the following year.

23—Catch and disposal records (giant crab)—Southern Zone

- (1) Subject to subregulation (2), if giant crab is taken pursuant to a licence in respect of the Southern Zone Rock Lobster Fishery endorsed with a condition fixing a giant crab quota on the licence, the holder of the licence or the registered master of the registered boat from which the giant crab is taken must ensure that—
- (a) at least 1 hour before the giant crab is removed from the registered boat from which it was taken, the Director is notified by telephone of—
 - (i) the name of the person making the telephone call; and
 - (ii) the number of the licence pursuant to which the giant crab was taken; and
 - (iii) the certification station at which the giant crab is to be weighed; and
 - (iv) the estimated time of arrival of the giant crab at that certification station; and
 - (v) whether any giant crab is to be stored on a registered boat used pursuant to the licence after the boat is landed; and
 - (b) the Director is notified of any change in the estimated time of arrival of the giant crab at the certification station if it appears likely to the holder of the licence or the registered master that the giant crab will arrive at the certification station earlier than the estimated time previously notified to the Director or more than 30 minutes after that time.
- (2) Subregulation (1) does not apply if the giant crab is to be weighed at a certification station nominated by the Director by notice in the Gazette between the hours specified in the notice.
- (3) 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 or the registered master of a registered boat used to take giant crab pursuant to such a licence must comply with the following provisions:
- (a) before giant crab taken pursuant to the licence is removed from the registered boat from which it was taken, he or she must complete Part A of a GC-CDR form in respect of the giant crab;
 - (b) immediately after a registered boat used pursuant to the licence is landed, he or she must remove from the boat any giant crab that is not to be stored on the boat;

- (c) he or she must ensure that the GC-CDR book is kept on board the registered boat from which the giant crab was taken until all the GC-CDR forms in the book are completed;
 - (d) he or she must deliver a completed GC-CDR book to the Director within 14 days of its completion.
- (4) If subregulation (1) or (3) is not complied with, the holder of the licence is guilty of an offence.
- Maximum penalty: \$4 000.
Expiation fee: \$315.

24—Returns

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

25—Victorian licences

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

- (a) if 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.

Maximum penalty: \$4 000.

Expiation fee: \$315.

26—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.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (2) It is a defence to a charge of an offence against subregulation (1) if the defendant proves that he or she 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

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 (*Scorpis aequipinnis*)

Tommy ruff (*Arripis georgianus*)

Trevalla (*Hyperoglyphe antarctica*)

Trevally (*Usacaranx georgianus*)

Whiting (Family Sillaginidae)

Crustaceans

Crab, giant (*Pseudocarcinus gigas*)

Crab, velvet (*Nectocarcinus tuberculosus*)

Molluscs

Cockle (Suborder Teledonta)

Cuttlefish (*Sepia* spp.)

Mussels (*Mytilus* spp.)

Octopus (*Octopus* spp.)

Oyster (Family Ostridae)

Scallop (Family Pectinidae)

Squid, arrow (*Nototodarus gouldii*)

Squid, calamary (*Sepioteuthis australis*)

Annelids

Beachworm (Class Polychaeta)

Bloodworm (Class Polychaeta)

Tubeworm (Class Polychaeta)

Sharks

All species of shark other than white pointer shark (*Carcharodon carcharias*) (Class Elasmobranchii)

Rays (Class Elasmobranchii)

Skate (Class Elasmobranchii)

Schedule 2—Fees

- | | | |
|------|--|--------------|
| 1 | On application for the renewal of a licence in respect of the Northern Zone Rock Lobster Fishery— | |
| (a) | 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 | \$12 001.00 |
| (b) | 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— | |
| (i) | rock lobster, octopus and giant crab; and | |
| (ii) | fish of a species (other than octopus or giant crab) prescribed by Schedule 1 for the purpose of bait only | \$ 12 501.00 |
| (c) | in any other case | \$13 835.00 |

Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 2006—24.8.2006 to 31.8.2006—uncommenced
Schedule 2—Fees

2	On application for the renewal of a licence in respect of the Northern Zone Rock Lobster Fishery (in addition to the fee payable under clause 1)—for each rock lobster pot endorsed on the licence	\$88.00
3	On application for the renewal of a licence endorsed with a condition fixing a giant crab quota on the licence (in addition to the fees payable under clauses 1 and 2)—for each giant crab unit allocated to the licence	\$29.30
4	On application for the renewal of a licence endorsed with a condition limiting the number of giant crab that may be taken on each boat trip (in addition to the fees payable under clauses 1, 2 and 3)	\$32.60
5	On application for the renewal of a licence in respect of the Southern Zone Rock Lobster Fishery—	
	(a) 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	\$10 118.00
	(b) 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—	
	(i) rock lobster, octopus and giant crab; and	
	(ii) fish of a species (other than octopus or giant crab) prescribed by Schedule 1 for the purpose of bait only	\$10 618.00
	(c) in any other case	\$11 952.00
6	On application for the renewal of a licence in respect of the Southern Zone Rock Lobster Fishery (in addition to the fee payable under clause 5)—for each rock lobster pot endorsed on the licence	\$96.00
7	On application for the renewal of a licence in respect of the Southern Zone Rock Lobster Fishery endorsed with a condition fixing a giant crab quota on the licence (in addition to the fees payable under clauses 5 and 6)—for each giant crab unit allocated to the licence	\$29.30
8	On application for the renewal of a licence endorsed with a condition limiting the number of giant crab that may be taken on each boat trip (in addition to the fees payable under clauses 5, 6 and 7)	\$32.60
9	On application for consent to the transfer of a licence in respect of a rock lobster fishery	\$311.00
10	On application under regulation 15 to vary licence conditions so as to alter a rock lobster pot entitlement	\$104.00
11	On application under regulation 16 to vary licence conditions so as to alter unit entitlements in respect of rock lobster	\$104.00
12	On application under regulation 17 to vary licence conditions so as to alter unit entitlements in respect of giant crab	\$104.00

The fee prescribed in relation to an application under regulation 15 is not payable if, at the same time, an application under regulation 16 or 17 is made in respect of the same licence and the fee prescribed in relation to that application is paid.

Schedule 3—Revocation of *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 1991*

The *Fisheries (Scheme of Management—Rock Lobster 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	208	<i>Gazette 24.8.2006 p2974</i>	1.9.2006: r 2