

TASMANIA

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**FISHERIES (SCALLOP) RULES 2020**  
**STATUTORY RULES 2020, No. 52**

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**CONTENTS**

**PART 1 – PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation
4. Application of rules
5. Duration of rules
6. Consultation arrangements
7. Classes of fishing licence

**PART 2 – GENERAL MANAGEMENT OF FISHERY**

8. Taking or possessing scallops during open season
9. Taking scallops smaller than minimum size
10. Possessing scallops smaller than minimum size

**PART 3 – NON-COMMERCIAL SCALLOP FISHERY**

*Division 1 – Closed seasons and closed areas*

11. Closed and open seasons for non-commercial scallop fishery
12. Closed and open areas for non-commercial scallop fishery other than D'Entrecasteaux Channel
13. Opening and closure of D'Entrecasteaux Channel

14. Restriction on taking or possessing scallops for non-commercial scallop fishery

***Division 2 – Catch controls***

15. Maximum amount of scallops for non-commercial scallop fishery

***Division 3 – Recreational fishing licences***

16. Authority of licence
17. Person under 10 years not eligible to hold fishing licence (recreational scallop)

**PART 4 – COMMERCIAL SCALLOP FISHERY**

***Division 1 – Closed seasons and closed areas***

18. Closed and open seasons for commercial scallop fishery
19. Closed and open areas for commercial scallop fishery
20. Restriction on taking scallops during closed season for commercial scallop fishery
21. Restriction on possessing scallops during closed season for commercial scallop fishery
22. Restriction on taking or possessing scallops in closed area for commercial scallop fishery

***Division 2 – Catch controls***

23. Total allowable catch for commercial scallop fishery
24. Research quota units
25. Scallop quota unit balance
26. Overrun provisions
27. Scallop survey period
28. Scallop survey approval
29. Entering scallop vessel exclusion zone
30. Taking scallops in scallop dredging prohibited area or shallow waters

***Division 3 – Commercial fishing licences***

31. Authority of licence
32. Carrying copy of licence
33. Transferring licence

34. Restriction on granting subsequent licences

***Division 4 – Scallop quota units***

35. Transferring units
36. Minimum and maximum holdings

**PART 5 – SCALLOP DREDGES**

37. Definition of scallop dredge
38. Deployment of scallop dredges, &c.
39. Possessing scallop dredges
40. Scallop dredging prohibited in certain areas
41. Possessing scallop dredges in scallop vessel exclusion zone
42. Possessing scallop dredges during closed season
43. Specifications for scallop dredges

**PART 6 – REPORTING**

***Division 1 – Reports***

44. Reporting service
45. Report requirements
46. Pre-fishing reports
47. Port entry reports
48. Movement reports
49. Alternative arrangements for reporting
50. Making reports
51. Cancellation reports
52. False, misleading or incomplete information
53. Provision of receipt numbers

***Division 2 – Dockets and returns***

54. Scallop quota dockets
55. Completed scallop quota dockets
56. Conflicts of interest
57. Scallop processor returns
58. Scallop catch records

**PART 7 – MISCELLANEOUS**

59. Removing scallops from shells and possession of scallop meat
60. Transferring scallops from one vessel to another vessel
61. Certain vessels not to be used for taking scallops
62. Divers taking scallops
63. Identifying unloaded scallops
64. Unloading at port of landing
65. Transfer or sale of scallops to unlicensed persons, &c.
66. Vessel monitoring systems
67. Presumption as to possession of scallop held by child
68. Infringement notice offences and penalties
69. Legislation rescinded

**SCHEDULE 1 – PORTS**

**SCHEDULE 2 – SCALLOP DREDGING PROHIBITED AREAS**

**SCHEDULE 3 – OVERRUN**

**SCHEDULE 4 – SCALLOP MEASUREMENTS**

**SCHEDULE 5 – INFRINGEMENT NOTICE OFFENCES AND PENALTIES**

**SCHEDULE 6 – LEGISLATION RESCINDED**

## **FISHERIES (SCALLOP) RULES 2020**

I make the following rules under the *Living Marine Resources Management Act 1995*.

Dated 16 July 2020.

GUY BARNETT  
Minister for Primary Industries and Water

### **PART 1 – PRELIMINARY**

#### **1. Short title**

These rules may be cited as the *Fisheries (Scallop) Rules 2020*.

#### **2. Commencement**

These rules take effect on 1 January 2021.

#### **3. Interpretation**

(1) In these rules –

*Act* means the *Living Marine Resources Management Act 1995*;

*authorised mooring* means a mooring that is authorised by the Marine and Safety Authority established under the *Marine and Safety Authority Act 1997*;

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 3

Part 1 – Preliminary

---

***Bass Strait Central Zone Scallop Fishery*** means the fishery in Commonwealth waters managed by the Australian Fisheries Management Authority as defined under the Offshore Constitutional Settlement entered into between the Commonwealth and the States;

***Bass Strait scallop fisher*** means a person holding a Commonwealth authority to take scallops from Commonwealth waters;

***Bass Strait scallop trip*** means a fishing trip that a Bass Strait scallop fisher takes to the Bass Strait Central Zone Scallop Fishery in accordance with the requirements of the fisher's Commonwealth authority;

***closed area*** –

- (a) for the commercial scallop fishery, means an area of State waters that is closed to the commercial scallop fishery under rule 19(2); and
- (b) for the non-commercial scallop fishery, means an area of State waters –
  - (i) determined by the Minister to be closed to the non-commercial scallop fishery under rule 12(1); or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 1 – Preliminary

r. 3

---

- (ii) that is closed to the non-commercial scallop fishery under rule 13(1);

***closed season*** –

- (a) for the commercial scallop fishery, means the period determined to be the closed season by the Minister under rule 18; and
- (b) for the non-commercial scallop fishery, means the period specified in rule 11(1) or such other period determined to be the closed season by the Minister under rule 11(2);

***commercial scallop fishery*** means the part of the scallop fishery comprising the taking or possession of scallops for commercial purposes;

***Commonwealth authority*** means a licence, permit, right or other authority relating to a specific fishery granted under the Commonwealth Act;

***deactivate***, in relation to a fishing licence, means to make the licence subject to a condition that prohibits the use of the licence –

- (a) for a period specified in the condition; or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 3

Part 1 – Preliminary

---

- (b) from a date and time specified in the condition;

***D'Entrecasteaux Channel*** means the area of State waters bounded –

- (a) in the north by an imaginary straight line from Dennes Point on Bruny Island to Piersons Point on the western shore of the River Derwent; and
- (b) in the south by an imaginary straight line from Scott Point (at the entrance of Port Esperance) to the northernmost point of Partridge Island, and by the line of longitude 147° 05.90' East between the southernmost point of Partridge Island and Labillardiere Peninsula on Bruny Island;

***Grade 1 penalty*** means the penalty specified in regulation 5 of the *Fisheries (Penalties) Regulations 2011*;

***Grade 2 penalty*** means the penalty specified in regulation 6 of the *Fisheries (Penalties) Regulations 2011*;

***Grade 3 penalty*** means the penalty specified in regulation 7 of the *Fisheries (Penalties) Regulations 2011*;

***immediate proximity***, in relation to any place, means –



*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 1 – Preliminary

r. 3

---

- (a) within 100 metres of that place;  
or
- (b) within such greater distance of  
that place as the Secretary, by  
notice, may specify for the  
purposes of this definition;

***land*** means to bring scallops ashore or in  
contact with a pier, jetty or other artificial  
extension of land;

***licence quota unit balance***, for a fishing  
licence (scallop) for a quota period,  
means the portion of the total weight of  
scallop quota units specified in the  
licence that remains to be caught in the  
quota period;

***MAST*** means the Marine and Safety  
Authority established under the *Marine  
and Safety Authority Act 1997*;

***minimum size*** – see Schedule 4;

***non-commercial scallop fishery*** means the  
part of the scallop fishery comprising the  
following activities:

- (a) the taking or possession of  
scallops by the holder of a fishing  
licence (recreational scallop)  
under the authority of that  
licence;

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 3

Part 1 – Preliminary

---

- (b) the taking or possession of scallops by an Aborigine engaged in an Aboriginal activity;

***notice*** means a notice published in one or more of the following ways:

- (a) published in the *Gazette*;
- (b) published on a website operated by, or on behalf of, the Department for the duration of the period for which the notice is in effect;
- (c) published in a newspaper circulating generally in the State;

***open season*** –

- (a) for the commercial scallop fishery, means the period determined to be the open season by the Minister under rule 18; and
- (b) for the non-commercial scallop fishery, means the period specified in rule 11(1) or such other period determined as being the open season by the Minister under rule 11(2);

***processing premises*** means a place, vessel or vehicle for which a fish processing licence is in force;

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 1 – Preliminary

r. 3

---

***quota period*** –see rule 23(1);

***relevant fishing certificate***, in relation to a fishing licence, means the fishing certificate maintained by the Secretary under section 63 of the Act in respect of that fishing licence;

***reporting service*** means an approved service under rule 44;

***research quota unit*** means an entitlement to take scallops in accordance with rule 24;

***scallop*** means fish of the species –

- (a) *Equichlamys bifrons* (commonly known as queen scallop); or
- (b) *Pecten fumatus* (commonly known as commercial scallop); or
- (c) *Mimachlamys asperrima* (commonly known as doughboy scallop);

***scallop dredge*** – see rule 37;

***scallop dredging prohibited area*** means an area of State waters specified in Column 2 (and as described in Column 3) of the table in Schedule 2;

***scallop fishery*** – see rule 4;

***scallop meat*** means any portion of a scallop that is –

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 3

Part 1 – Preliminary

---

(a) removed from an enclosing shell;  
or

(b) not attached or fastened to a  
shell;

***scallop quota docket*** means a docket relating to the unloading of scallops that is part of the records required to be kept under the Act;

***scallop quota unit*** means a unit that is an entitlement to take one 10 366th of the total allowable catch for the commercial scallop fishery;

***scallop quota unit balance*** means the sum of the licence quota unit balance and the portion of the total weight of research quota units specified in a fishing licence that remains to be caught in the quota period;

***scallop sales receipt*** means a receipt relating to the sale of scallops that is part of the records required to be kept under the Act;

***scallop spat*** – see clause 2 of Part 1 of Schedule 4;

***scallop survey*** means a scallop survey, the conduct of which is in accordance with –

(a) a determination of the Minister under rule 27; or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 1 – Preliminary

r. 3

---

- (b) an approval of the Secretary under rule 28;

***scallop vessel exclusion zone*** means a specified area of State waters determined to be a scallop vessel exclusion zone under rule 19(4);

***site of unloading*** means the place where any scallops taken in State waters are first unloaded, whether it be –

- (a) on land; or
- (b) on a wharf, jetty or other structure connected to land;

***unloading*** means causing or permitting scallops to be taken off a fishing vessel;

***vessel monitoring system*** has the same meaning as in rule 3 of the *Fisheries Rules 2019*;

***whole scallop*** means a scallop that has not been removed from its shell.

- (2) In these rules, unless the contrary intention appears –
  - (a) a reference to a licensee’s scallop quota units is taken not to include the licensee’s research quota units; and
  - (b) a reference to a licensee’s licence quota unit balance is taken not to include the amount, if any, of scallops that the

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 4

Part 1 – Preliminary

---

licensee may take under a research quota unit.

- (3) In these rules, a reference to the holder of a fishing licence includes (except in rule 36) a person who has approval to use the licence under section 87(2) of the Act.
- (4) For the purposes of these rules, a fishing trip is taken –
  - (a) to have commenced when the vessel being used for the fishing trip departs from a public wharf or authorised mooring; and
  - (b) to have ended when the vessel returns to a public wharf or authorised mooring.
- (5) In these rules, *port of landing* includes –
  - (a) a wharf provided for public use at a port specified in Schedule 1; and
  - (b) a port (not specified in Schedule 1) where the holder of a fishing licence (scallop) is authorised, by that licence, to unload scallops.

#### 4. Application of rules

These rules apply to the fishery for scallop in State waters (the *scallop fishery*).

**5. Duration of rules**

These rules continue in force for a period of 10 years.

**6. Consultation arrangements**

The Minister is to consult with the appropriate advisory committee established under section 27 of the Act in relation to the scallop fishery about any changes relating to –

- (a) any area where fishing may occur; and
- (b) any matter relating to the characteristics of fish; and
- (c) any opening and closing of the scallop fishery; and
- (d) any apparatus; and
- (e) limits on taking and possessing fish.

**7. Classes of fishing licence**

For the purposes of these rules, a fishing licence is one of the following classes:

- (a) class scallop, fishing licence (scallop);
- (b) class recreational, fishing licence (recreational scallop);
- (c) class vessel, fishing licence (vessel);

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**r. 7**

Part 1 – Preliminary

---

- (d) class commercial dive, fishing licence (commercial dive);
- (e) class scallop spat collection, fishing licence (scallop spat collection).



## **PART 2 – GENERAL MANAGEMENT OF FISHERY**

### **8. Taking or possessing scallops during open season**

(1) A person must not, in State waters, take or be in possession of scallops, during an open season unless –

(a) the person is –

(i) the holder of a fishing licence (scallop); and

(ii) authorised to participate in the scallop fishery during that open season; or

(b) the person is the holder of a fishing licence (recreational scallop); or

(c) the person is an Aborigine engaged in an Aboriginal activity.

Penalty: Grade 3 penalty.

(2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that –

(a) at the relevant time, he or she was acting under the authority of –

(i) a marine farming licence authorising the marine farming of scallops; or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 9

Part 2 – General Management of Fishery

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- (ii) a fishing licence (scallop spat collection); or
- (b) the scallops or scallop meat were purchased from a fish merchant or retail outlet.

**9. Taking scallops smaller than minimum size**

A person must not take scallops that are smaller than the minimum size from State waters unless –

- (a) the person is the holder of a fishing licence (scallop spat collection) and takes only scallop spat; or
- (b) the person is the holder of a fishing licence (scallop) and the scallops taken that are smaller than the minimum size constitute no more than 15% of the total amount of scallops taken by the person; or
- (c) the person is complying with a marine farming licence authorising the marine farming of scallops.

Penalty: Grade 3 penalty.

**10. Possessing scallops smaller than minimum size**

A person must not be in possession of scallops that are smaller than the minimum size unless –

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 2 – General Management of Fishery

**r. 10**

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- (a) the person is the holder of a fishing licence (scallop spat collection) and is in possession only of scallop spat; or
- (b) the person is the holder of a fishing licence (scallop) and the scallops that are smaller than the minimum size constitute no more than 15% of the total amount of scallops in the person's possession; or
- (c) the person has bought or received the scallops that are smaller than the minimum size from a fish merchant or retail outlet; or
- (d) the person is complying with a marine farming licence authorising the marine farming of scallops.

Penalty: Grade 3 penalty.

**PART 3 – NON-COMMERCIAL SCALLOP FISHERY**

*Division 1 – Closed seasons and closed areas*

**11. Closed and open seasons for non-commercial scallop fishery**

- (1) Unless determined otherwise under subrule (2) –
  - (a) the open season for the non-commercial scallop fishery is the period commencing on the Saturday immediately preceding Good Friday in a year and ending at midnight on 31 July in the same year; and
  - (b) the closed season for the non-commercial scallop fishery is the period commencing on 1 August in a year and ending at midnight on the Friday immediately preceding Good Friday in the following year.
- (2) The Minister, by notice, may determine –
  - (a) the dates of the open season for the non-commercial scallop fishery; and
  - (b) the dates of the closed season for the non-commercial scallop fishery.

**12. Closed and open areas for non-commercial scallop fishery other than D'Entrecasteaux Channel**

- (1) The Minister, by notice, may determine –

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 3 – Non-commercial Scallop Fishery

r. 13

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- (a) that any area of State waters is closed to the non-commercial scallop fishery; or
  - (b) that any area of State waters is closed to the non-commercial scallop fishery for a specified species of scallop.
- (2) All areas of State waters that are not determined to be closed under subrule (1)(a) or subrule (1)(b) are open to the non-commercial scallop fishery for all species of scallop.
  - (3) An area of State waters that is closed under subrule (1)(b) for a specified species of scallop is open to the non-commercial scallop fishery for scallop other than the specified species of scallop to which the closure relates.
  - (4) This rule does not apply to the area of State waters in the D'Entrecasteaux Channel.

**13. Opening and closure of D'Entrecasteaux Channel**

- (1) The D'Entrecasteaux Channel is closed to the non-commercial scallop fishery for all species of scallop unless the Minister determines that it is open under subrule (2)(a) or subrule (2)(b).
- (2) The Minister, by notice, may determine that the D'Entrecasteaux Channel –
  - (a) is open to the non-commercial scallop fishery; or
  - (b) is open to the non-commercial scallop fishery for a specified species of scallop.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 14

Part 3 – Non-commercial Scallop Fishery

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- (3) If the Minister makes a determination under subrule (2)(b), the D'Entrecasteaux Channel is closed to the non-commercial scallop fishery for all species of scallop other than the species specified in the determination.

**14. Restriction on taking or possessing scallops for non-commercial scallop fishery**

- (1) A person, other than the holder of a fishing licence (scallop), must not –
- (a) take scallops from State waters during the closed season for the non-commercial scallop fishery; or
  - (b) be in possession of scallops in any area of State waters during the closed season for the non-commercial scallop fishery; or
  - (c) during the open season for the non-commercial scallop fishery, take scallops in an area determined by the Minister to be closed to the non-commercial scallop fishery under rule 12(1)(a); or
  - (d) during the open season for the non-commercial scallop fishery, take a species of scallop from an area of State waters that is determined to be closed under rule 12(1)(b) to the non-commercial scallop fishery for that species of scallop; or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 3 – Non-commercial Scallop Fishery

r. 15

- (e) during the open season for the non-commercial scallop fishery, be in possession of scallops while swimming or diving in a closed area for the non-commercial scallop fishery.

Penalty: Grade 3 penalty.

- (2) It is a defence in proceedings for an offence under subrule (1)(b) if the defendant establishes that the scallops were purchased from a fish merchant or retail outlet.

*Division 2 – Catch controls*

**15. Maximum amount of scallops for non-commercial scallop fishery**

- (1) The Minister, by notice, may specify the maximum number of scallops that may be taken from, or possessed in, a specified area of State waters that is open to the non-commercial scallop fishery.
- (2) A person, other than the holder of a fishing licence (scallop), must not, in any one day in State waters, take, or be in possession of, more than –
  - (a) the amount of scallops specified by the Minister under subrule (1) for that area of State waters; or
  - (b) if no amount of scallops has been specified by the Minister under subrule

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 15

Part 3 – Non-commercial Scallop Fishery

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(1) for that area of State waters, 50 whole scallops.

Penalty: Grade 3 penalty.

- (3) A person must not be in possession of more than 100 whole scallops unless the person is the holder of a licence that authorises that person to be in possession of more than 100 whole scallops.

Penalty: Grade 3 penalty.

- (4) A person must not be in possession of more than 3 kilograms of scallop meat unless the person is the holder of a licence that authorises the person to be in possession of more than 3 kilograms of scallop meat.

Penalty: Grade 3 penalty.

- (5) It is a defence in proceedings for an offence under this rule if the defendant establishes that the scallops or scallop meat were purchased from a fish merchant or retail outlet.

- (6) It is a defence in proceedings for an offence under subrule (4) if the defendant establishes that the scallop meat consisted of not more than –

(a) 100 scallops; or

(b) if the defendant holds a licence that authorises that person to be in possession of more than 100 scallops, that higher number of scallops.



***Division 3 – Recreational fishing licences***

**16. Authority of licence**

A fishing licence (recreational scallop) only authorises the holder of the licence to take scallops for non-commercial purposes in State waters.

**17. Person under 10 years not eligible to hold fishing licence (recreational scallop)**

A person who has not attained the age of 10 years is not eligible to hold a fishing licence (recreational scallop).

**PART 4 – COMMERCIAL SCALLOP FISHERY**

*Division 1 – Closed seasons and closed areas*

**18. Closed and open seasons for commercial scallop fishery**

The Minister, by notice, may determine –

- (a) the dates of the open season for the commercial scallop fishery; and
- (b) the dates of the closed season for the commercial scallop fishery.

**19. Closed and open areas for commercial scallop fishery**

(1) The Minister, by notice, may –

- (a) determine any specified areas of State waters to be open to the commercial scallop fishery; and
- (b) determine any specified areas of State waters to be open to the commercial scallop fishery for a method of fishing; and
- (c) specify the amount of scallops that may be taken from, or possessed in, an area determined to be open under paragraph (a) or (b).

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 4 – Commercial Scallop Fishery

r. 20

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- (2) All areas of State waters that are not determined to be open under subrule (1)(a) are closed to the commercial scallop fishery.
  - (3) An area of State waters that is determined to be open for a method of fishing under subrule (1)(b) is closed to the commercial scallop fishery for all methods of fishing other than the method to which the determination relates.
  - (4) The Minister, by notice, may determine any specified areas of State waters to be scallop vessel exclusion zones.

**20. Restriction on taking scallops during closed season for commercial scallop fishery**

- (1) The holder of a fishing licence (scallop) must not take scallops from State waters during a closed season for the commercial scallop fishery.

Penalty: Grade 3 penalty.

- (2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

**21. Restriction on possessing scallops during closed season for commercial scallop fishery**

- (1) A person must not be in possession of scallops during a closed season for the commercial scallop fishery.

Penalty: Grade 3 penalty.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**r. 21**

Part 4 – Commercial Scallop Fishery

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- (2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that the scallops in respect of which the offence is alleged to have been committed were –
- (a) imported into the State; or
  - (b) taken, bought or sold –
    - (i) during an open season for the commercial scallop fishery; or
    - (ii) under a Commonwealth authority to take scallops from Commonwealth waters; or
    - (iii) as part of a scallop survey; or
  - (c) in the defendant’s possession –
    - (i) during an open season for the commercial scallop fishery; or
    - (ii) under a Commonwealth authority to take scallops from Commonwealth waters; or
  - (d) taken during the open season for the non-commercial scallop fishery by –
    - (i) the holder of a fishing licence (recreational scallop); or
    - (ii) an Aborigine engaged in an Aboriginal activity.
- (3) It is also a defence in proceedings for an offence under subrule (1) if the defendant establishes

that, at the relevant time, he or she was acting under the authority of –

- (a) a marine farming licence authorising the marine farming of scallops; or
- (b) a fishing licence (scallop spat collection).

**22. Restriction on taking or possessing scallops in closed area for commercial scallop fishery**

- (1) The holder of a fishing licence (scallop) must not take scallops in an area that is closed to the commercial scallop fishery under rule 19(2).

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (scallop) must not take scallops in an area by a method of fishing for which the area is closed to the commercial scallop fishery under rule 19(3).

Penalty: Grade 3 penalty.

- (3) The holder of a fishing licence (scallop) must not, in a specified area of State waters, take or be in possession of more than the amount of scallops specified by the Minister under rule 19(1)(c) for that area of State waters.

Penalty: Grade 3 penalty.

- (4) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

***Division 2 – Catch controls***

**23. Total allowable catch for commercial scallop fishery**

- (1) The quota period during which the total allowable catch for the commercial scallop fishery may be taken is the period determined to be the open season for the commercial scallop fishery.
- (2) The Minister is to allocate the portion of the total allowable catch allocated to the commercial scallop fishery to the holders of fishing licences (scallop) according to the number of scallop quota units held and owned by those licensees in respect of those licences immediately before the commencement of the open season referred to in subrule (1).

**24. Research quota units**

- (1) The Secretary may allocate research quota units to the holder of a fishing licence (scallop) in lieu of payment for approved research undertaken by the licence holder.
- (2) A research quota unit allocated under subrule (1) authorises the holder of the fishing licence (scallop) to take, for commercial purposes, the amount of scallops specified under subrule (3)(a).
- (3) The Secretary is to specify –
  - (a) the amount of scallops that may be taken under a research quota unit; and

- (b) the conditions under which those scallops may be taken.
- (4) The holder of a fishing licence (scallop) who has been allocated a research quota unit under subrule (1) –
  - (a) must not take more than the amount specified under subrule (3)(a) for that research quota unit; and
  - (b) must comply with any conditions specified under subrule (3)(b).

Penalty: Grade 3 penalty.

- (5) A research quota unit is not to be permanently transferred.
- (6) The Secretary may, in the Secretary's discretion, transfer a research quota unit on a temporary basis.
- (7) Unless approved by the Minister, the Secretary is not to allocate more than 100 tonnes of research quota units in a quota period.

## **25. Scallop quota unit balance**

- (1) The holder of a fishing licence (scallop) must not take scallops for commercial purposes if the scallop quota unit balance in relation to that licence is zero kilograms or less for the quota period.

Penalty: Grade 3 penalty.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 26

Part 4 – Commercial Scallop Fishery

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- (2) The holder of a fishing licence (scallop) must keep, on the fishing vessel specified in the relevant fishing certificate, records for the quota period that show –
- (a) the scallop quota unit balance for the licence after each unloading; and
  - (b) the scallop quota unit balance for the licence before the commencement of each fishing trip.

Penalty: Grade 3 penalty.

**26. Overrun provisions**

- (1) In this rule –

*beach price* means the monthly average price paid for scallops as determined by the Secretary;

*current quota period*, in respect of scallops taken under a fishing licence (scallop), means the quota period in which those scallops were taken.

- (2) The Minister is to ensure that any quantity of scallops taken under a fishing licence (scallop) from a specified area of State waters in excess of the amount determined by the Minister under rule 19(1)(c) for that area is deducted, in accordance with Schedule 3, from the licence quota unit balance for the current quota period.
- (3) Despite rule 25, if in a quota period the holder of a fishing licence (scallop) takes on a fishing trip



an amount of scallops that exceeds the scallop quota unit balance for that licence, the licensee does not commit an offence under that rule if –

- (a) the scallop quota unit balance for the quota period is not exceeded by more than 15 000 kilograms; and
- (b) the licensee pays to the Crown, in respect of any scallops in excess of the scallop quota unit balance an amount equal to –
  - (i) the beach price for any amount of scallops that exceeds the scallop quota unit balance by not more than 2 000 kilograms; and
  - (ii) 1.5 times the beach price for any amount of scallops that exceeds the scallop quota unit balance by more than 2 000 kilograms and not more than 15 000 kilograms.

## **27. Scallop survey period**

- (1) The Minister, by notice, may determine any specified area of State waters to be open to the commercial scallop fishery for the conduct of a scallop survey for such period as is specified in the notice.
- (2) The Minister may make a determination under subrule (1) subject to such conditions as the Minister thinks fit and as are specified in the notice.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 28

Part 4 – Commercial Scallop Fishery

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- (3) If the Minister makes a determination under subrule (1), the holder of a fishing licence (scallop) may conduct a scallop survey in the area subject to any conditions specified in the notice.
- (4) Subrule (3) does not apply to the holder of a fishing licence (scallop) while the fishing licence (scallop) is deactivated.
- (5) The holder of a fishing licence (scallop) must comply with any conditions of a determination under subrule (1).

Penalty: Grade 3 penalty.

**28. Scallop survey approval**

- (1) The Secretary may give the holder of a fishing licence (scallop) approval to conduct a scallop survey in a closed area for the commercial scallop fishery.
- (2) An approval under subrule (1) is to be in writing and is to specify the following:
  - (a) the dates during which the survey is to be conducted;
  - (b) the area where the survey is to be conducted;
  - (c) the area, if any, where a scallop dredge may be deployed to conduct the survey;
  - (d) the amount of scallops that may be taken and possessed during the scallop survey;

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 4 – Commercial Scallop Fishery

r. 28

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- (e) the data required to be collected during the scallop survey and the manner of recording that data and providing it to the Secretary;
  - (f) such other information as the Secretary determines.
- (3) An approval under subrule (1) is subject to the following conditions:
- (a) that the licensee collect, record and provide to the Secretary the required data;
  - (b) unless specifically permitted in the approval, that the licensee not deploy a scallop dredge in a closed area for the commercial scallop fishery;
  - (c) unless specifically permitted in the approval, that the licensee not enter a scallop vessel exclusion zone;
  - (d) that the licensee, if and when requested, allow an approved person on board the fishing vessel to observe the scallop survey activities;
  - (e) any other condition specified in the approval.
- (4) The holder of a fishing licence (scallop) must not contravene or allow another person to contravene a condition of an approval under subrule (1).

Penalty: Grade 3 penalty.

**29. Entering scallop vessel exclusion zone**

- (1) The holder of a fishing licence (scallop) must ensure that the vessel specified in the relevant fishing certificate does not enter a scallop vessel exclusion zone.

Penalty: Grade 2 penalty.

- (2) A Bass Strait scallop fisher undertaking a Bass Strait scallop trip must ensure that the fishing vessel used for the trip does not enter a scallop vessel exclusion zone.

Penalty: Grade 2 penalty.

- (3) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that –

(a) the safety of the vessel or crew would have been at risk had it not entered the scallop vessel exclusion zone; or

(b) at the relevant time, he or she was acting under the authority of a scallop survey.

- (4) It is a defence in proceedings for an offence under subrule (2) if the defendant establishes that the safety of the vessel or crew would have been at risk had it not entered the scallop vessel exclusion zone.

- (5) Subrule (1) does not apply to the holder of a fishing licence (scallop) while the fishing licence (scallop) is deactivated.

**30. Taking scallops in scallop dredging prohibited area or shallow waters**

- (1) The holder of a fishing licence (scallop) must not take scallops in –
- (a) a scallop dredging prohibited area; or
  - (b) State waters that are less than 20 metres deep.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply to the holder of a fishing licence (scallop) who takes scallops by hand collection or diving in a scallop dredging prohibited area if the Minister, under rule 19(1)(b), has determined that area to be open to the commercial scallop fishery for that method of fishing.

***Division 3 – Commercial fishing licences***

**31. Authority of licence**

A fishing licence (scallop) only authorises the holder to –

- (a) take the weight of scallops equivalent to the scallop quota units specified in the licence; and

- (b) take the weight of scallops equivalent to the research quota units specified in the licence; and
- (c) use the fishing vessel specified in the relevant fishing certificate to take those scallops.

### **32. Carrying copy of licence**

The holder of a fishing licence (scallop) must, during a fishing trip, keep a copy of that licence on the fishing vessel used for that fishing trip.

Penalty: Grade 2 penalty.

### **33. Transferring licence**

- (1) In this rule –

*commercial fishing licence* means a licence to take fish for commercial purposes.

- (2) The Minister may refuse to transfer a fishing licence (scallop) from one person to another unless –
  - (a) the other person holds a fishing licence (vessel) and a transferable commercial fishing licence; or
  - (b) the licence is transferred together with the associated fishing licence (vessel) and any other fishing licences specified in the relevant fishing certificate.

- (3) The Minister is not to transfer a fishing licence (scallop) so that –
- (a) two or more fishing licences (scallop) are specified in one relevant fishing certificate; or
  - (b) a person may, to take scallops, use a fishing vessel that is greater in length than the maximum vessel length permitted on the fishing licence (vessel) specified in the relevant fishing certificate.

**34. Restriction on granting subsequent licences**

- (1) This rule applies if a person holding a fishing licence (scallop) –
- (a) allows the licence to expire; and
  - (b) does not, within the period of 12 months commencing on the date of the expiry, apply under section 77 of the Act for the grant of a further licence of the same kind.
- (2) The person is not eligible to be granted a further fishing licence (scallop).

***Division 4 – Scallop quota units***

**35. Transferring units**

- (1) The Minister may transfer a scallop quota unit.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 36

Part 4 – Commercial Scallop Fishery

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- (2) The transfer may, in the Minister's discretion, be on a permanent or temporary basis.
- (3) The Minister is not to transfer a scallop quota unit to a person who is not the holder of a fishing licence (scallop).
- (4) If only 10 scallop quota units are held on a fishing licence (scallop), the Minister is not to transfer any scallop quota units unless –
  - (a) they are transferred with the fishing licence (scallop) under rule 33; or
  - (b) the licence is surrendered to the Minister and the scallop quota units are transferred to the holder of another fishing licence (scallop).
- (5) Subrule (4) does not apply to the transfer of scallop quota units on a temporary basis.
- (6) The Minister is not to transfer on a temporary basis a scallop quota unit that has been wholly or partially caught.

**36. Minimum and maximum holdings**

- (1) A person must not hold more than 6 separate fishing licences (scallop) at one time.

Penalty: Grade 2 penalty.

- (2) The number of scallop quota units specified in a fishing licence (scallop) is to be at least 10 and not more than 2 400.



*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 4 – Commercial Scallop Fishery

r. 36

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- (3) The holder of a fishing licence (scallop) must not hold more than 2 400 scallop quota units at one time.

Penalty: Grade 2 penalty.

- (4) The holder of a fishing licence (scallop) must not, in that capacity, receive any payment or benefit from more than 2 400 scallop quota units unless the licensee has authorisation from the Secretary in writing to do so.

Penalty: Grade 2 penalty.

- (5) The Minister is to ensure that a fishing licence (scallop) with fewer than 50 scallop quota units held on it is deactivated.

- (6) Subrule (5) does not apply to a fishing licence (scallop) if the holder of the licence held fewer than 50 scallop quota units at the commencement of the *Fisheries (Scallop) Rules 2000*.

**PART 5 – SCALLOP DREDGES**

**37. Definition of scallop dredge**

- (1) A scallop dredge is apparatus that is –
  - (a) designed for use, or capable of being used, for or in connection with the taking of scallops; and
  - (b) capable of being towed along the seabed by a vessel.
- (2) A scallop dredge does not include the following:
  - (a) the tipper or cradle used to support and tilt the dredge;
  - (b) any rope, cable, chain or other attachment to the vessel.

**38. Deployment of scallop dredges, &c.**

For the purposes of this Part –

- (a) a scallop dredge is taken to have been deployed from a vessel if the scallop dredge (or any rope, chain, cable or other thing attached to the scallop dredge) is in or touching the water; and
- (b) a scallop dredge is taken to be on board a vessel if no part of the scallop dredge (or any rope, chain, cable or other thing attached to the scallop dredge) is in or touching the water.

**39. Possessing scallop dredges**

- (1) A person must not be in possession of a scallop dredge in State waters unless the person is –
- (a) the holder of a fishing licence (scallop) that is endorsed for participation in the scallop fishery at that time and is not deactivated; or
  - (b) the holder of a fishing licence (scallop) and acting under the authority of a scallop survey; or
  - (c) a Bass Strait scallop fisher undertaking a Bass Strait scallop trip during an open season for the Bass Strait Central Zone Scallop Fishery and the scallop dredge is on board the fishing vessel.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (scallop) must not, without the written approval of the Secretary, be in possession of a scallop dredge in State waters unless the licensee's fishing vessel has been fitted with a vessel monitoring system.

Penalty: Grade 3 penalty.

**40. Scallop dredging prohibited in certain areas**

- (1) A person must not deploy or use a scallop dredge in –
- (a) a scallop dredging prohibited area; or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 40

Part 5 – Scallop Dredges

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- (b) State waters that are less than 20 metres deep; or
- (c) a closed area for the commercial scallop fishery.

Penalty: Grade 3 penalty.

- (2) Despite subrule (1), the holder of a fishing licence (scallop) or the holder of a Commonwealth authority to take scallops may deploy a scallop dredge while in the immediate proximity of a port for the purpose of maintenance if –
  - (a) the dredge does not come into contact with the seabed; and
  - (b) the holder of the licence or the holder of the authority has written approval from a fisheries officer.
- (3) It is a defence in proceedings for an offence under subrule (1)(a), (b) or (c) if the defendant establishes that, at the relevant time, he or she was acting in accordance with a written authorisation from MAST to deploy or use a scallop dredge for the purpose of promoting a navigable channel.
- (4) It is a defence in proceedings for an offence under subrule (1)(c) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

**41. Possessing scallop dredges in scallop vessel exclusion zone**

- (1) A person must not be in possession of a scallop dredge in a scallop vessel exclusion zone.

Penalty: Grade 3 penalty.

- (2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

**42. Possessing scallop dredges during closed season**

- (1) The holder of a fishing licence (scallop) must not be in possession of a scallop dredge in State waters during a closed season for the commercial scallop fishery.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply if –

- (a) the scallop dredge is on board a fishing vessel that –

- (i) is returning to a port of landing within 48 hours after the end of the open season; or
- (ii) is leaving a port within 48 hours before the start of the open season; or
- (iii) is in port or on a mooring and not undertaking a fishing trip; or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 43

Part 5 – Scallop Dredges

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- (b) the holder of the fishing licence (scallop) is authorised by an endorsement on the licence to be in possession of a scallop dredge in State waters during a closed season for the commercial scallop fishery.
- (3) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

**43. Specifications for scallop dredges**

- (1) The holder of a fishing licence (scallop) must not deploy or use a scallop dredge in State waters unless –
  - (a) the width of the scallop dredge, measured from the outer edges of the dredge, is less than 5 metres; and
  - (b) if a tooth bar is used with the dredge –
    - (i) it is fixed above the sledge runners of the dredge; and
    - (ii) the distance between the teeth is no less than 50 millimetres; and
    - (iii) the teeth project no more than 100 millimetres below the sledge runners of the dredge; and
  - (c) if a lip is used with the dredge, the lip projects no more than 50 millimetres below the sledge runners of the dredge.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 5 – Scallop Dredges

**r. 43**

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Penalty: Grade 3 penalty.

- (2) Except with the written approval of the Secretary, the holder of a fishing licence (scallop) must not cause or permit more than one scallop dredge to be deployed or used from a fishing vessel.

Penalty: Grade 2 penalty.

## **PART 6 – REPORTING**

### ***Division 1 – Reports***

#### **44. Reporting service**

- (1) A service may be approved to receive reports under these rules.
- (2) As soon as practicable after receiving a report under these rules, the reporting service is to issue the maker of the report with a report receipt number.

#### **45. Report requirements**

The Secretary may require a report made under this Part –

- (a) to be made in a specific way; and
- (b) to contain specific details and information.

#### **46. Pre-fishing reports**

The holder of a fishing licence (scallop) must, unless otherwise authorised, make a report to the reporting service before commencing a fishing trip to take scallops or to conduct a scallop survey.

Penalty: Grade 2 penalty.



**47. Port entry reports**

- (1) The holder of a fishing licence (scallop) who is in possession of scallops on a fishing vessel must make a report to the reporting service at least two hours before entering the immediate proximity of a port of landing in a fishing vessel.

Penalty: Grade 3 penalty.

- (2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that he or she entered the immediate proximity of the port of landing in compliance with a direction of a fisheries officer.
- (3) The holder of a fishing licence (scallop) who is in possession of scallops on a fishing vessel –
- (a) must not unload any of those scallops unless a report has been made to the reporting service under subrule (1) at least 2 hours before the unloading commences; and
  - (b) must make an additional report to the reporting service –
    - (i) in respect of any partial unloading of scallops that occurs 5 or more hours after the initial unloading commenced; and
    - (ii) at least 30 minutes before commencing the partial unloading of the scallops.

Penalty: Grade 2 penalty.

**48. Movement reports**

The holder of a fish processing licence must make a report to the reporting service before moving any scallops –

- (a) from the immediate proximity of the fishing vessel from which they were unloaded; or
- (b) into any premises.

Penalty: Grade 3 penalty.

**49. Alternative arrangements for reporting**

Rules 46, 47, and 48 do not apply if –

- (a) the relevant licence is endorsed for alternative arrangements relating to reporting requirements; and
- (b) the licensee complies with the terms of the endorsement.

**50. Making reports**

A person must not, except with the written approval of the Secretary, make a report to the reporting service more than 24 hours before the activity to which the report relates is to take place.

Penalty: Grade 2 penalty.

**51. Cancellation reports**

If a person who makes a report to the reporting service does not undertake the activity to which the report relates, the person must make a further report to the reporting service within 2 hours after the activity was supposed to have occurred.

Penalty: Grade 2 penalty.

**52. False, misleading or incomplete information**

A person must not –

- (a) omit any relevant information from a report required under this Part; or
- (b) give any false or misleading information in a report required under this Part.

Penalty: Grade 3 penalty.

**53. Provision of receipt numbers**

A person who is issued with a report receipt number by the reporting service must provide that number to a fisheries officer when required to do so.

Penalty: Grade 2 penalty.

***Division 2 – Dockets and returns***

**54. Scallop quota dockets**

- (1) The holder of a fishing licence (scallop) must complete Part A of a scallop quota docket –
  - (a) before any scallops leave the immediate proximity of the site of unloading; and
  - (b) for each vehicle transporting scallops from the site of unloading.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply if the holder of the fishing licence (scallop) sells the scallops in accordance with rule 65 to a person who is not the holder of a fish processing licence.
- (3) The holder of a fish processing licence must complete, or cause to be completed, Part B of a scallop quota docket –
  - (a) before any scallops leave the immediate proximity of the site of unloading and enter any processing premises; and
  - (b) for each vehicle transporting scallops from the site of unloading.

Penalty: Grade 3 penalty.

- (4) A person who completes Part B of a scallop quota docket must write his or her full name and address on the docket.

Penalty: Grade 2 penalty.

**55. Completed scallop quota docketts**

- (1) The holder of a fishing licence (scallop) must –
  - (a) send the pink sheet of the completed scallop quota docket to the Secretary within 48 hours after unloading any scallops; and
  - (b) keep the white sheet of the completed scallop quota docket, in good condition, for at least 5 years.

Penalty: Grade 3 penalty.

- (2) The holder of a fish processing licence who receives any scallops must ensure that the yellow sheet of the completed scallop quota docket is carried with the scallops while they are being transported to the processing premises.

Penalty: Grade 3 penalty.

- (3) The holder of a fish processing licence who receives any scallops must keep the yellow sheet of the completed scallop quota docket, in good condition, at the processing premises for at least 5 years.

Penalty: Grade 3 penalty.

**56. Conflicts of interest**

- (1) The holder of a fish processing licence who also holds a fishing licence (scallop) must not complete Part B of the scallop quota docket in respect of –
  - (a) any scallops landed by the person as the holder of the fishing licence (scallop); or
  - (b) any scallops landed by a person who is a director, a shareholder, a business partner, an employer or an employee of the holder of the fishing licence (scallop).

Penalty: Grade 3 penalty.

- (2) The holder of a fish processing licence must not complete Part B of the scallop quota docket for any scallops processed, received or transported as an employee of, or a contractor of, the holder of the fishing licence (scallop) who landed the scallops.

Penalty: Grade 3 penalty.

- (3) The holder of a fish processing licence to whom subrule (1) or (2) applies must ensure that –
  - (a) Part B of the scallop quota docket is completed by –
    - (i) a person not specified in subrules (1) and (2); or
    - (ii) an approved person; and

- (b) the person who completes Part B writes his or her name and address on the docket.

Penalty: Grade 3 penalty.

### **57. Scallop processor returns**

- (1) In this rule –

*return arrangements* means requirements relating to the completion of, and provision to the Secretary of, an approved scallop processor return;

*scallop processor return* means a return relating to processed scallops that is part of the records required to be kept under the Act.

- (2) Subject to subrule (3), the holder of a fish processing licence must, within 7 days after the end of the month in which any scallops have been processed under that licence –
  - (a) complete an approved scallop processor return; and
  - (b) provide that return to the Secretary.

Penalty: Grade 1 penalty.

- (3) If the Secretary notifies the holder of a fish processing licence in writing that he or she is to comply with alternative return arrangements under this rule, the holder of the fish processing

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 58

Part 6 – Reporting

---

licence must comply with those alternative return arrangements instead of subrule (2).

Penalty: Grade 1 penalty.

**58. Scallop catch records**

(1) In this rule –

*scallop catch record* means a record relating to scallop catch that is part of the records required to be kept under the Act.

(2) The holder of a fishing licence (scallop) must complete the scallop catch record section of the scallop quota docket on each day during which fishing occurs.

Penalty: Grade 2 penalty.



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**PART 7 – MISCELLANEOUS**

**59. Removing scallops from shells and possession of scallop meat**

(1) In this rule –

*deckhand*, in relation to a vessel and any scallops, means a person who was on board the vessel as crew during the fishing trip in which the scallops were taken;

*trading vessel* means a vessel, other than a fishing vessel, that is used or is intended to be used, wholly or principally –

- (a) to carry passengers or cargo for hire or reward; or
- (b) to provide services to ships or shipping, whether for reward or otherwise.

(2) A person in State waters must not –

- (a) remove a scallop from its enclosing shell;  
or
- (b) be in possession of scallop meat.

Penalty: Grade 2 penalty.

(3) Subrule (2) does not apply if –

- (a) the scallop meat is on a trading vessel and the scallop meat –

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 59

Part 7 – Miscellaneous

---

- (i) is being prepared for cooking or is being cooked or consumed; or
    - (ii) has been processed in processing premises; or
  - (b) the scallop meat is on a vessel that is being used for a recreational purpose and –
    - (i) there is no more than 3 kilograms of scallop meat in total on the vessel; and
    - (ii) the scallop meat has been purchased from a fish merchant or retail outlet.
- (4) Subrule (2) does not apply to the holder of a fishing licence (recreational scallop) if –
  - (a) he or she is in possession of the scallop meat while on board a vessel; and
  - (b) none of the scallop meat is landed; and
  - (c) the shells of all scallops from which the scallop meat has been removed are landed; and
  - (d) those shells are included in the daily maximum amount of scallops permitted under rule 15(2).
- (5) Subrule (2) does not apply to the holder of a fishing licence (scallop) if –
  - (a) he or she is on board a vessel; and

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 7 – Miscellaneous

r. 59

---

- (b) the scallop is removed from its enclosing shell before the vessel is in the immediate proximity of a port of landing; and
  - (c) there is, in total, no more than 5 kilograms of scallop meat on board the vessel.
- (6) The holder of a fishing licence (scallop) may keep, or transfer to a deckhand, scallop meat that has been removed from its enclosing shell in accordance with subrule (5) once the vessel that the holder is on has entered a port of landing.
- (7) The holder of a fishing licence (scallop) must provide a scallop sales receipt for scallop meat kept, or transferred, under subrule (6) to the person keeping or receiving the scallop meat, being a receipt specifying –
- (a) the date and time when the scallop meat is unloaded; and
  - (b) the accurate weight of the scallop meat kept or transferred under subrule (6); and
  - (c) the name of the person receiving any scallop meat kept or transferred under subrule (6).

Penalty: Grade 2 penalty.

- (8) A person who is in possession of scallop meat kept or transferred in accordance with subrule (6) must –

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 60

Part 7 – Miscellaneous

---

- (a) keep the receipt provided under subrule (7) whilst the person is in possession of the scallop meat; and
- (b) not sell or transfer that scallop meat.

Penalty: Grade 2 penalty.

- (9) The holder of a fishing licence (scallop) who has kept, or transferred, scallop meat in accordance with subrule (6) must keep a copy of the receipt provided under subrule (7), in good condition, for at least 5 years after the scallop meat was kept or transferred.

Penalty: Grade 2 penalty.

**60. Transferring scallops from one vessel to another vessel**

The holder of a fishing licence (scallop) must not in State waters transfer, or cause or permit to be transferred, any scallops from one vessel to another vessel.

Penalty: Grade 3 penalty.

**61. Certain vessels not to be used for taking scallops**

A person must not, in State waters, take scallops using a vessel that –

- (a) has been used to take scallops outside State waters since the vessel last left port; or

- (b) is carrying any scallops taken outside State waters.

Penalty: Grade 2 penalty.

## **62. Divers taking scallops**

The holder of a fishing licence (scallop) must not permit more than 3 holders of fishing licences (commercial dive) to dive from, or swim from, the fishing vessel specified in the relevant fishing certificate to take scallops during a fishing trip.

Penalty: Grade 2 penalty.

## **63. Identifying unloaded scallops**

The holder of a fish processing licence must ensure that –

- (a) any scallops transported from a fishing vessel to processing premises are identifiable as scallops unloaded from the fishing vessel; and
- (b) scallops in the immediate proximity of the fishing vessel are held in no more than 2 types of containers.

Penalty: Grade 2 penalty.

**64. Unloading at port of landing**

- (1) The holder of a fishing licence (scallop) must not unload scallops at any place other than a port of landing unless –
  - (a) the licensee is complying with a direction of a fisheries officer to unload scallops at a place other than a port of landing; or
  - (b) the licence is endorsed with alternative conditions relating to unloading and the scallops are unloaded in accordance with those conditions.

Penalty: Grade 3 penalty.

- (2) A person unloading scallops from a fishing vessel must weigh those scallops –
  - (a) within the immediate proximity of the site of unloading; and
  - (b) before the scallops are taken into processing premises.

Penalty: Grade 3 penalty.

**65. Transfer or sale of scallops to unlicensed persons, &c.**

- (1) The holder of a fishing licence (scallop) must not transfer, sell or transport for sale more than 100 kilograms of whole scallops for each fishing trip unless the person receiving the scallops is the holder of a fish processing licence endorsed to process scallops.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (scallop) who transfers or sells 100 kilograms or less of whole scallops to a person who is not the holder of a fish processing licence must –
  - (a) give a scallop sales receipt to the person to whom the scallops are transferred or sold before the scallops are removed from the immediate proximity of the fishing vessel; and
  - (b) on the day that the transfer or sale occurs, record the accurate weight of scallops transferred or sold on the scallop quota docket.

Penalty: Grade 3 penalty.

- (3) A fish merchant who sells more than 3 kilograms of scallop meat or more than 100 whole scallops to a person must give the person a receipt for that sale.

Penalty: Grade 2 penalty.

## **66. Vessel monitoring systems**

- (1) The Secretary may direct, in writing, the holder of a fishing licence (scallop) to fit a vessel monitoring system to a specified fishing vessel.
- (2) The provisions of Part 3 of the *Fisheries Rules 2019*, other than rule 26 of those rules, apply to the holder of a fishing licence (scallop) as if –

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 67

Part 7 – Miscellaneous

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- (a) a reference in those rules to a supervisor of a fishing licence (vessel) were a reference to a holder of a fishing licence (scallop); and
- (b) a reference in those rules to the vessel specified in the licence were a reference to the specified fishing vessel; and
- (c) a reference in those rules to a notice in writing served were a reference to a notice in writing sent.

**67. Presumption as to possession of scallop held by child**

(1) In this rule –

*adult supervisor*, of a child at any place, means –

- (a) the child's nearest adult relative who is present at the place; or
- (b) if no nearest adult relative of the child is present at the place, a guardian or carer of the child who is present at the place; or
- (c) if an adult referred to in paragraph (a) or (b) is not present at the place but the child is in a vehicle or on a vessel, the adult in charge of the vehicle or vessel (whether that adult is, at the



*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

Part 7 – Miscellaneous

r. 67

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relevant time, physically in or on the vehicle or vessel);

***child*** means a natural person who has not attained the age of 10 years;

***nearest adult relative***, of a child at any place, means –

- (a) a parent of the child who is present at the place; or
- (b) if no parent of the child is present at the place, a step-parent of the child who is present at the place; or
- (c) if no person referred to paragraph (a) or (b) is present at the place, a grandparent of the child who is present at the place; or
- (d) if no person referred to paragraph (a), (b) or (c) is present at the place, an adult uncle or aunt of the child who is present at the place; or
- (e) if no person referred to paragraph (a), (b), (c) or (d) is present at the place, an adult brother or sister who is present at the place; or
- (f) if no person referred to paragraph (a), (b), (c), (d) or (e) is present at the place, an adult half-brother or

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

r. 68

Part 7 – Miscellaneous

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half-sister of the child who is present at the place.

- (2) For the purposes of these rules and any proceedings for offences under these rules, it is to be presumed that –
- (a) a child cannot, regardless of the child's capacity, be in possession of a scallop; and
  - (b) any scallop that a child may be holding, or have about the child, at any place, is in the possession of the adult supervisor, if any, of that child at that place.

**68. Infringement notice offences and penalties**

For section 42(2) of the Act –

- (a) an offence against a provision of these rules specified in column 1 of Schedule 5 is a prescribed offence; and
- (b) the penalty specified in column 2 of that Schedule for that offence is its prescribed penalty.

**69. Legislation rescinded**

The legislation specified in Schedule 6 is rescinded.

**SCHEDULE 1 – PORTS**

Rule 3(5)

1. Beauty Point
2. Bell Bay
3. Bicheno
4. Bridport
5. Currie
6. Devonport
7. Dunalley
8. George Town
9. Grassy
10. Hobart
11. Lady Barron
12. Margate
13. St Helens

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 1**

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**14.** Stanley

**15.** Triabunna

**16.** Ulverstone

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

**SCHEDULE 2 – SCALLOP DREDGING PROHIBITED  
AREAS**

Rule 3(1)

| Column 1    | Column 2          | Column 3  |
|-------------|-------------------|---|
| <b>Item</b> | <b>Area</b>       | <b>Description of area</b>  |
| 1.          | Adventure Bay     | The waters enclosed west of an imaginary line starting at the southernmost extent of Cape Queen Elizabeth and running in a south-westerly direction to the intersection of line of latitude 43° 17.5226' South with line of longitude 147° 21.5238' East, and then in a southerly direction to the northernmost extent of Grass Point.  |
| 2.          | Armstrong Channel | <p>The waters within the area bounded –</p> <p>(a) in the west by an imaginary straight line from the southernmost extent of Cape Sir John (on Cape Barren Island) to the westernmost extent of Foam Point (on Clarke Island); and</p> <p>(b) in the east by an imaginary line from the southernmost extent of Moriarty Point (on Clarke Island) to the southernmost extent of Passage Island, then to the southernmost extent of Cone Point (on Cape Barren Island).</p> |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 2**

| Column 1 | Column 2                | Column 3  |
|----------|-------------------------|---|
| 3.       | Bicheno                 | The waters enclosed west of an imaginary line starting at the northernmost extent of Farm Point and running in a northerly direction to the intersection of line of latitude 41° 52.0945' South with line of longitude 148° 19.3587' East, and then in a north-westerly direction to the intersection of line of latitude 41° 50.6104' South with line of longitude 148° 16.0877' East. |
| 4.       | Binalong Bay            | The waters enclosed west of an imaginary straight line starting at the northernmost extent of Boat Harbour Point and running in a northerly direction to the intersection of line of latitude 41° 12.6557' South with line of longitude 148° 17.0404' East.   |
| 5.       | Cloudy Bay              | The waters enclosed north of an imaginary straight line from the southernmost extent of Point Grand to the westernmost extent of Beaufort Point.  |
| 6.       | D'Entrecasteaux Channel | The waters within the area bounded –<br><br>(a) in the north by an imaginary straight line from Dennes Point on Bruny Island to Piersons Point on the western shore of the River Derwent; and   |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

| Column 1 | Column 2          | Column 3  |
|----------|-------------------|---|
| 7.       | East Coast Waters | <p>(b) in the south by an imaginary straight line from Scott Point (at the entrance of Port Esperance) to the northernmost point of Partridge Island, and by the line of longitude 147° 05.90' East between the southernmost point of Partridge Island and Labillardiere Peninsula on Bruny Island.</p> <p>The waters within the area bounded –</p> <p>(a) in the north by an imaginary straight line from the north-easternmost extent of Seaford Point to the intersection of line of latitude 42° 18.4232' South with line of longitude 148° 02.6199' East; and</p> <p>(b) in the south by an imaginary straight line from the easternmost extent of Cape Bougainville to the intersection of line of latitude 42° 32.0469' South with line of longitude 148° 01.9899' East; and</p> |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

| Column 1 | Column 2      | Column 3   |
|----------|---------------|--|
| 8.       | Fortescue Bay | <p>(c) in the east by an imaginary line starting at the intersection of line of latitude 42° 18.4232' South with line of longitude 148° 02.6199' East, then running due south to the intersection of line of latitude 42° 20.7900' South with line of longitude 148° 02.6199' East, then in a south-westerly direction to the intersection of line of latitude 42° 24.5900' South with line of longitude 148° 00.6200' East, then in a south-easterly direction to the intersection of line of latitude 42° 26.3900' South with line of longitude 148° 01.9200' East, then in a south-westerly direction to the intersection of line of latitude 42° 29.0733' South with line of longitude 148° 00.6200' East, then in a south-easterly direction to the intersection of line of latitude 42° 32.0469' South with line of longitude 148° 01.9899' East.</p> <p>The waters enclosed west of an imaginary straight line from the northernmost extent of Cape Hauy to the easternmost extent of Dolomieu Point.</p> |



*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

| Column 1 | Column 2   | Column 3  |
|----------|--|---|
| 9.       | Franklin Sound and waters west of Flinders Island            | <p>The waters within the area bounded –</p> <p>(a) in the west by an imaginary line from the westernmost extent of Cape Frankland (on Flinders Island) to the easternmost extent of Spit Point (on Prime Seal Island), then in a southerly direction to the westernmost extent of East Kangaroo Island, then in a southerly direction to the westernmost extent of Mt Chapel Island, then in a southerly direction to the westernmost extent of Cape Sir John (on Cape Barren Island); and</p> <p>(b) in the east by an imaginary straight line from the northernmost extent of Harleys Point (on Cape Barren Island) to the easternmost extent of Pot Boil Point (on Flinders Island).</p> |
| 10.      | Frederick Henry Bay, Norfolk Bay, Pittwater and Blackman Bay | <p>The waters within the area bounded –</p>   |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 2**

| Column 1 | Column 2         | Column 3  |
|----------|------------------|---|
|          |                  | <p>(a) in the south by an imaginary straight line from the southernmost extent of North West Head to the southernmost extent of Cape Contrariety; and</p> <p>(b) in the east by an imaginary straight line from the southernmost extent of Long Spit running due east to the opposite shore of Little Chinaman Bay.</p> |
| 11.      | Georges Bay      | The waters enclosed west of an imaginary straight line extending from the easternmost extent of Grants Point to the northernmost extent of St Helens Point.   |
| 12.      | Great Oyster Bay | The waters enclosed north of an imaginary straight line from the westernmost extent of Weatherhead Point (on Freycinet Peninsula) to the north-easternmost extent of Seaford Point.   |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

| Column 1 | Column 2        | Column 3   |
|----------|-----------------|--|
| 13.      | Marion Bay      | The waters enclosed west of an imaginary line starting at Cape Bernier and running in a south-westerly direction to the intersection of line of latitude 42° 46.4753' South with line of longitude 147° 53.8132' East, then due south to the intersection of line of latitude 42° 48.1320' South with line of longitude 147° 53.8132' East, then in a south-easterly direction to the intersection of line of latitude 42° 51.8245' South with line of longitude 147° 57.0292' East, then in an easterly direction to the easternmost extent of Cape Frederick Hendrick. |
| 14.      | Mercury Passage | The waters within the area bounded – <ul style="list-style-type: none"> <li>(a) in the north by an imaginary straight line from the easternmost extent of Cape Bougainville to the northernmost extent of Cape Boullanger; and</li> <li>(b) in the south by an imaginary straight line from the southernmost extent of Cape Peron to the easternmost extent of Cape Bernier.</li> </ul>  |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

| Column 1 | Column 2                     | Column 3  |
|----------|------------------------------|---|
| 15.      | Pirates Bay                  | The waters enclosed west of an imaginary straight line from the northernmost extent of Fossil Island to the southernmost extent of Osprey Head.   |
| 16.      | Port Arthur and Crescent Bay | The waters enclosed – <ul style="list-style-type: none"> <li>(a) north of an imaginary straight line from the southernmost extent of Budget Head to the easternmost extent of Standup Point; and</li> <li>(b) west of an imaginary straight line from the easternmost extent of Standup Point to the easternmost extent of West Arthur Head.</li> </ul> |
| 17.      | Port Sorell                  | The waters upstream of an imaginary straight line from Griffiths Point in the east to Taroon Point in the west at the southern extremity of Hawley Beach.   |
| 18.      | Recherche Bay                | The waters enclosed west of an imaginary straight line from the northernmost extent of Fishers Point to the easternmost extent of Eliza Point.  |
| 19.      | Riedle Bay                   | The waters enclosed west of an imaginary straight line from John Bulls Rock to Cape des Tombeaux.   |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 2

| Column 1 | Column 2         | Column 3   |
|----------|------------------|--|
| 20.      | River Derwent    | The waters upstream of an imaginary straight line from the northernmost extent of Dennes Point to the southernmost extent of Cape Direction.   |
| 21.      | River Tamar      | The waters upstream of an imaginary straight line from the northernmost extent of Low Head to the northernmost extent of West Head.  |
| 22.      | Robbins Passage  | The waters within the area bounded – <ul style="list-style-type: none"> <li>(a) in the east by an imaginary straight line from the westernmost extent of Eagle Point to the easternmost extent of Cape Elie (on Robbins Island); and</li> <li>(b) in the north by an imaginary straight line from the northernmost extent of Walker Island to the northernmost extent of Woolnorth Point.</li> </ul> |
| 23.      | Schouten Passage | The waters within the area bounded – <ul style="list-style-type: none"> <li>(a) in the east by an imaginary straight line from the easternmost extent of Cape Degerando to the easternmost extent of Masons Downfall; and</li> </ul>   |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 2**

| Column 1 | Column 2      | Column 3   |
|----------|---------------|--|
|          |               | (b) in the west by an imaginary straight line from the westernmost extent of Sandstone Bluff to the westernmost extent of Weatherhead Point.                                 |
| 24.      | Southport     | The waters enclosed west of an imaginary straight line from the southernmost extent of Rossel Point to the easternmost extent of Southport Bluff.                            |
| 25.      | Wedge Bay     | The waters enclosed east of an imaginary straight line from the westernmost extent of Low Point to the southernmost extent of Lory Point.                                    |
| 26.      | Wineglass Bay | The waters enclosed west of an imaginary straight line from the easternmost extent of Cape Tourville to the northernmost extent of the easternmost extent of Cape Forestier. |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 3

**SCHEDULE 3 – OVERRUN**

| <b>Item</b> | <b>Amount of excess kilograms</b>                                     | <b>Deduction for each excess kilogram</b> |
|-------------|---|---|
| 1.          | Less than or equal to 3 000 kilograms                                 | 1 kilogram                                |
| 2.          | More than 3 000 kilograms but less than or equal to 5 000 kilograms   | 1.5 kilograms                             |
| 3.          | More than 5 000 kilograms but less than or equal to 10 000 kilograms  | 2 kilograms                               |
| 4.          | More than 10 000 kilograms but less than or equal to 15 000 kilograms | 3 kilograms                               |

**SCHEDULE 4 – SCALLOP MEASUREMENTS**

Rule 3(1) and rules 9 and 10

**PART 1 – MINIMUM SIZE AND MEANING OF  
SCALLOP SPAT**

**1. Minimum size specified**

Unless the Minister, by notice, determines otherwise for a type of scallop, or for a type of scallop in relation to a part of the scallop fishery, the minimum size for a scallop is taken to be –

- (a) for a queen scallop (*Equichlamys bifrons*), a scallop that is 100 millimetres at its widest part; or
- (b) for a commercial scallop (*Pecten fumatus*) if taken or possessed for non-commercial purposes, a scallop that is 100 millimetres at its widest part; or
- (c) for a commercial scallop (*Pecten fumatus*) if taken or possessed for commercial purposes, a scallop that is 90 millimetres at its widest part; or
- (d) for a doughboy scallop (*Mimachlamys asperrima*), a scallop that is 85 millimetres at its widest part.

**2. Meaning of scallop spat**

In these rules –



*scallop spat* means a scallop that is less than 40 millimetres at its widest part.

### **3. Meaning of widest part of scallop**

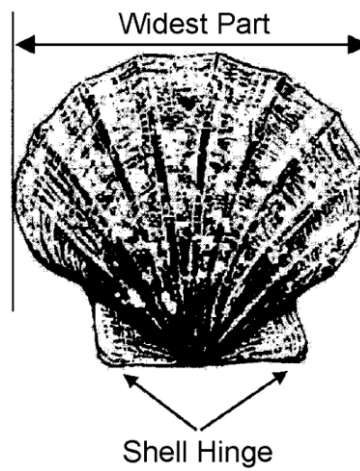
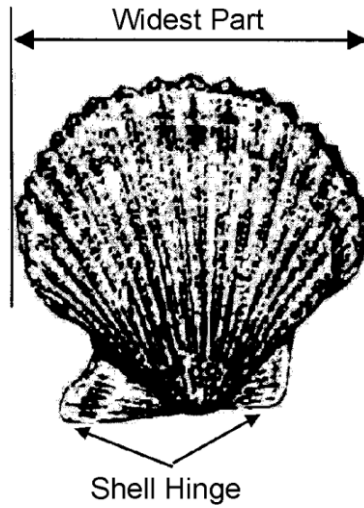
For the purpose of clauses 1 and 2, the widest part of a scallop is taken to be the measurement along a straight line, generally parallel with the shell hinge, representing the widest part of the body of the shell, as shown in the diagrams which are set out, by way of illustration only, in Part 2 of this Schedule.

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 4

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**PART 2 – SCALLOP DIAGRAMS**



*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 5

**SCHEDULE 5 – INFRINGEMENT NOTICE OFFENCES  
AND PENALTIES**

Rule 68

|     | <b>Column 1</b>           | <b>Column 2</b>      |
|-----|---------------------------|----------------------|
|     | <b>Provision of rules</b> | <b>Penalty units</b> |
| 1.  | Rule 8(1)                 | 4                    |
| 2.  | Rule 9                    | 4                    |
| 3.  | Rule 10                   | 2                    |
| 4.  | Rule 14(1)                | 4                    |
| 5.  | Rule 15(2)                | 2                    |
| 6.  | Rule 15(3)                | 2                    |
| 7.  | Rule 15(4)                | 2                    |
| 8.  | Rule 20(1)                | 4                    |
| 9.  | Rule 21(1)                | 4                    |
| 10. | Rule 22(1)                | 5                    |
| 11. | Rule 22(2)                | 4                    |
| 12. | Rule 22(3)                | 4                    |
| 13. | Rule 24(4)                | 2                    |
| 14. | Rule 25(1)                | 5                    |
| 15. | Rule 25(2)                | 4                    |
| 16. | Rule 27(5)                | 4                    |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 5**

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|     | <b>Column 1</b>           | <b>Column 2</b>      |
|-----|---------------------------|----------------------|
|     | <b>Provision of rules</b> | <b>Penalty units</b> |
| 17. | Rule 28(4)                | 3                    |
| 18. | Rule 29(1)                | 3                    |
| 19. | Rule 29(2)                | 3                    |
| 20. | Rule 30(1)(a)             | 5                    |
| 21. | Rule 30(1)(b)             | 3                    |
| 22. | Rule 32                   | 1                    |
| 23. | Rule 36(1)                | 4                    |
| 24. | Rule 36(3)                | 4                    |
| 25. | Rule 36(4)                | 4                    |
| 26. | Rule 39(1)                | 5                    |
| 27. | Rule 39(2)                | 5                    |
| 28. | Rule 40(1)(a)             | 5                    |
| 29. | Rule 40(1)(b)             | 3                    |
| 30. | Rule 40(1)(c)             | 3                    |
| 31. | Rule 41(1)                | 5                    |
| 32. | Rule 42(1)                | 5                    |
| 33. | Rule 43(1)                | 3                    |
| 34. | Rule 43(2)                | 4                    |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

sch. 5

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|     | <b>Column 1</b>           | <b>Column 2</b>      |
|-----|---------------------------|----------------------|
|     | <b>Provision of rules</b> | <b>Penalty units</b> |
| 35. | Rule 46                   | 1                    |
| 36. | Rule 47(1)                | 1                    |
| 37. | Rule 47(3)(a)             | 2                    |
| 38. | Rule 47(3)(b)             | 2                    |
| 39. | Rule 48(a)                | 2                    |
| 40. | Rule 48(b)                | 3                    |
| 41. | Rule 50                   | 1                    |
| 42. | Rule 51                   | 1                    |
| 43. | Rule 52                   | 2                    |
| 44. | Rule 53                   | 1                    |
| 45. | Rule 54(1)                | 2                    |
| 46. | Rule 54(3)                | 2                    |
| 47. | Rule 54(4)                | 2                    |
| 48. | Rule 55(1)                | 2                    |
| 49. | Rule 55(2)                | 2                    |
| 50. | Rule 55(3)                | 2                    |
| 51. | Rule 56(1)                | 2                    |
| 52. | Rule 56(2)                | 2                    |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 5**

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|     | <b>Column 1</b>           | <b>Column 2</b>      |
|-----|---------------------------|----------------------|
|     | <b>Provision of rules</b> | <b>Penalty units</b> |
| 53. | Rule 56(3)                | 2                    |
| 54. | Rule 57(2)                | 1                    |
| 55. | Rule 58(2)                | 2                    |
| 56. | Rule 59(2)                | 2                    |
| 57. | Rule 59(7)                | 2                    |
| 58. | Rule 59(8)(a)             | 3                    |
| 59. | Rule 59(8)(b)             | 3                    |
| 60. | Rule 59(9)                | 2                    |
| 61. | Rule 60                   | 5                    |
| 62. | Rule 61                   | 3                    |
| 63. | Rule 62                   | 3                    |
| 64. | Rule 63(a)                | 4                    |
| 65. | Rule 63(b)                | 3                    |
| 66. | Rule 64(1)                | 3                    |
| 67. | Rule 64(2)                | 5                    |
| 68. | Rule 65(1)                | 4                    |
| 69. | Rule 65(2)                | 3                    |
| 70. | Rule 65(3)                | 2                    |

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

**sch. 6**

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**SCHEDULE 6 – LEGISLATION RESCINDED**

Rule 69

*Fisheries (Scallop) Rules 2010* (No. 3 of 2010)

*Fisheries (Scallop) Rules 2020*  
*Statutory Rules 2020, No. 52*

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 29 July 2020.

These rules are administered in the Department of Primary Industries, Parks, Water and Environment.

**EXPLANATORY NOTE**

*(This note is not part of the rules)*

These rules, which replace the *Fisheries (Scallop) Rules 2010*, provide for –

- (a) the management of the scallop fishery;  
and
- (b) licences for that fishery; and
- (c) reporting and other requirements relating to that fishery.