

I certify that this is a copy of the authorised version of this Statutory Rule as at 1 November 2019, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 November 2019.

Robyn Webb
Chief Parliamentary Counsel
Dated 18 November 2019

TASMANIA

FISHERIES (ROCK LOBSTER) RULES 2011

STATUTORY RULES 2011, No. 92

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FISHERIES (ROCK LOBSTER) RULES 2011

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

Dated 6 September 2011.

BRYAN GREEN
Minister for Primary Industries and Water

PART 1 – PRELIMINARY

1. Short title

These rules may be cited as the *Fisheries (Rock Lobster) Rules 2011*.

2. Commencement

These rules take effect on 1 November 2011.

3. Interpretation

In these rules –

abalone means fish of the genus *Haliotis*;

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

authorised mooring means a mooring that is authorised by MAST (the Marine and

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Safety Authority established under the
Marine and Safety Authority Act 1997);

auxiliary vessel means a dinghy, tender or other vessel that is –

- (a) part of the equipment of a fishing vessel; and
- (b) transported with, capable of being carried on, and operates solely from, the fishing vessel; and
- (c) is not operated further than 2 nautical miles from the fishing vessel;

cancellation report means a report to the reporting service made by approved means and containing approved information;

carapace means the shell that covers the dorsal surface of the cephalothorax of a rock lobster;

carapace length, of a rock lobster (whether live, dead or processed), means the distance from the anterior surface of the median suture of the frontal tubercle to the posterior edge of the dorsal region of the carapace, excluding any attached hairs;

catch-cap means the portion of the total allowable catch of rock lobster, determined under section 94(2)(c) of the

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Act, that may be taken from a catch-cap area;

catch-cap area means an area of State waters determined by the Minister under section 94(2)(b) of the Act to be subject to a catch-cap;

caught, in relation to any rock lobster or any kind of quota unit balance, does not include rock lobster that are –

- (a) caught in a rock lobster pot or rock lobster ring and returned to the water immediately after being hauled to the deck of a fishing vessel; or
- (b) deemed by the Secretary not to have been caught;

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

closed season, in respect of the rock lobster fishery or a part of that fishery, means a season or period during which the fishery, or that part of the fishery, is closed to fishing;

closed season report means a report to the reporting service made by approved means and containing approved information;

commencement day means the day on which these rules take effect;

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commercial rock lobster and giant crab direct sales quota docket means a docket, in an approved form, relating to rock lobster or giant crab that is part of the records required to be kept under the Act;

commercial rock lobster and giant crab sales receipt means a receipt, in an approved form, relating to rock lobster or giant crab that is part of the records required to be kept under the Act;

commercial rock lobster fishery means the fishery for rock lobster for commercial purposes that consists of the class of persons who hold a licence to take rock lobster for commercial purposes;

commercial rock lobster quota docket means a docket, in an approved form, relating to rock lobster that is part of the records required to be kept under the Act;

day means the 24-hour period commencing at midnight of any calendar day;

D'Entrecasteaux Channel means the waters within the area bounded –

- (a) (in the south) by an imaginary straight line from Scott Point (situated at the entrance of Port Esperance) to the northernmost extremity of Partridge Island and the line of longitude 147° 5' 90" East between the southernmost

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extremity of Partridge Island and Labillardiere Peninsula on Bruny Island; and

- (b) (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;

diving means diving or swimming below the surface of the water;

eastern region means –

- (a) all State waters lying eastwards of –
- (i) (in the north) an imaginary line running due north from the northernmost extremity of Point Sorell to the outer limit of State waters; and
 - (ii) (in the south) an imaginary line running due south from the southernmost extremity of Whale Head to the outer limit of State waters; and
- (b) all islands and tidal sandbars lying within the State waters referred to in paragraph (a) of this definition, with the exception of

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Flinders Island, Cape Barren
Island and Bruny Island;

emergency unloading report means a report to the reporting service made by approved means and containing approved information;

export, rock lobster, means transport the rock lobster beyond the limits of State waters;

fish cauf means fishing apparatus used for holding fish in State waters;

fish cauf report means a report to the reporting service made by approved means and containing approved information;

fish handler means the holder of a handling licence;

fish processor means the holder of a fish processing licence;

fishing quota unit balance, for a fishing licence for a quota year, means the sum of –

- (a) the portion of the total weight of rock lobster quota units specified in the licence that remains to be caught in the quota year; and
- (b) the portion of the total weight of research quota units specified in

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the licence that remains to be caught in the quota year;

fishing trip means a trip undertaken for fishing, or in preparation for fishing, commencing on the departure from a port, port of landing or authorised mooring and ending when all rock lobster pots have been removed from State waters and the fishing vessel returns to a port, port of landing or authorised mooring;

giant crab means crab of the species *Pseudocarcinus gigas*;

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*;

holder of a fishing licence includes (except in rule 9, rule 48, rule 50 and rule 57) a person who has approval to use the licence under section 87(2) of the Act;

holding tank means a tank on land (or on or in a jetty or other structure attached to land) used to hold rock lobster;

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immediate proximity, of any place or position,
means –

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

inshore crab means crab of the family *Portunidae* or *Grapsidae*;

leaving port report means a report to the reporting service made by approved means and containing approved information;

movement report means a report to the reporting service made by approved means and containing approved information;

non-commercial fisher means –

- (a) the holder of a recreational fishing licence; or
- (b) an Aborigine engaging in an Aboriginal activity;

non-commercial rock lobster fishery means that part of the rock lobster fishery comprising the taking or possession of

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rock lobster or giant crab by non-commercial fishers;

north-western region means all State waters bounded in the south by a line running due west at 42° South on the west coast and bounded in the north by a line running northward at 146° 32' 00' East on the north coast;

octopus means fish of the genus *Octopus*;

open season means a season or period during which all or part of the rock lobster fishery is open to fishing;

port of landing means a port specified in Schedule 1;

published 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;

quota year means the period referred to in rule 9(1) during which the total allowable catch for the commercial rock lobster

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fishery and the non-commercial rock lobster fishery may be taken;

recreational fishing licence means a fishing licence referred to in rule 8(b);

recreational rock lobster fishery means the fishery for rock lobster for recreational purposes that consists of the class of persons who hold a licence to take rock lobster for recreational purposes;

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 the fishing licence;

reporting service means a service approved under rule 86(1);

required sections, of any docket or record or a part of any docket or record, means the sections that, as indicated in the docket or record, are to be completed for the activity in respect of which the expression “required sections” is used;

research quota unit means an entitlement to take rock lobster in accordance with rule 48;

rock lobster means rock lobster of the genus *Jasus* or *Sagmariasus*;

rock lobster catch record means a record, in an approved form, relating to rock lobster

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catch that is part of the records required to be kept under the Act;

rock lobster catch record book means the book of rock lobster catch records issued to a licensee for the purposes of the Act;

rock lobster fishery means every activity that involves the taking or possession, under the Act, of rock lobster by any person;

rock lobster pot means –

- (a) a basket, trap, cage or other contrivance (other than a rock lobster ring) that is designed for use, or is capable of being used, for or in connection with the taking of rock lobster; or
- (b) a component part of such a basket, trap, cage or other contrivance;

rock lobster quota unit means a unit that is an entitlement to one-10 507th of the total allowable catch for the commercial rock lobster fishery;

rock lobster ring means a net that –

- (a) consists only of a single fixed ring or hoop to which a mesh of string or twine is attached; and
- (b) is designed for use, or is capable of being used, for or in

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connection with the taking of
rock lobster;

set, a rock lobster pot or rock lobster ring,
means to place or attempt to place the
rock lobster pot or rock lobster ring in
State waters;

site of unloading, of rock lobster, means –

(a) the first point where the rock
lobster or a container containing
the rock lobster –

(i) is unloaded; or

(ii) makes contact with a jetty
or artificial extension of
land; or

(b) any other place determined by the
Secretary;

State includes Territory;

Taroona waters means Taroona waters as
defined in the *Fisheries Rules 2009*;

transit, an area of State waters – see rule 4;

UIC – see rule 35;

unloading means the act of taking rock
lobster onto land, or causing or
permitting rock lobster to be taken onto
land, from a fishing vessel, fish cauf or
State waters;

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unloading report means a report to the reporting service made by approved means and containing approved information;

vessel monitoring system means a navigational measuring system that –

- (a) determines the location and activities of a vessel; and
- (b) is capable of transmitting data about that location and those activities via a satellite communication system;

western region means –

- (a) all State waters lying westwards of –
 - (i) (in the north) an imaginary line running due north from the northernmost extremity of Point Sorell to the outer limit of State waters; and
 - (ii) (in the south) an imaginary line running due south from the southernmost extremity of Whale Head to the outer limit of State waters; and
- (b) all islands and tidal sandbars lying within the State waters

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referred to in paragraph (a) of this definition.

4. Meaning of “transiting an area of State waters”

- (1) For the purpose of these rules, a person is taken to be transiting an area of State waters (“transit zone”) if, at the relevant time –
 - (a) the person is on board a fishing vessel inside the transit zone; and
 - (b) the fishing vessel is proceeding directly from port to engage in lawful fishing in waters outside the transit zone or is returning directly to port after engaging in lawful fishing in waters outside the transit zone; and
 - (c) the fishing vessel has not engaged in rock lobster fishing within the transit zone on that fishing trip.
- (2) Without limiting the generality of subrule (1)(c), a fishing vessel is taken to have engaged in rock lobster fishing for the purposes of that subrule if any person has set a rock lobster pot from the vessel.
- (3) For the purposes of subrule (2), a person is taken to have set a rock lobster pot if any part of the rock lobster pot, or any buoy, rope or other thing attached to the rock lobster pot, is in or touching the water.
- (4) In this rule –

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fishing vessel includes any auxiliary craft used or intended to be used in conjunction with the fishing vessel.

5. Application of rules

These rules apply to the rock lobster fishery.

6. Duration of rules

These rules continue in effect for 10 years.

7. Consultation arrangements

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

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

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8. Classes of fishing licence

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

- (a) class rock lobster, fishing licence (rock lobster);
- (b) class recreational –
 - (i) fishing licence (recreational rock lobster dive); or
 - (ii) fishing licence (recreational rock lobster pot); or
 - (iii) fishing licence (recreational rock lobster ring); or
 - (iv) fishing licence (recreational special rock lobster);
- (c) class personal, fishing licence (personal);
- (d) class vessel, fishing licence (vessel).

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9. Total allowable catch

- (1) The quota period during which the total allowable catch for the commercial rock lobster fishery and the recreational rock lobster fishery may be taken is the period beginning on 1 March in a year and ending on the last day of February in the following year.
- (2) The total allowable catch for the commercial rock lobster fishery and the recreational rock lobster fishery is to be allocated as follows:
 - (a) if the total allowable catch is set at less than 1 700 tonnes –
 - (i) the recreational rock lobster fishery is to be allocated 170 tonnes; and
 - (ii) the commercial rock lobster fishery is to be allocated the total allowable catch minus 170 tonnes;
 - (b) if the total allowable catch is set at 1 700 tonnes or more –
 - (i) the recreational rock lobster fishery is to be allocated 10% of the total allowable catch; and

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- (ii) the commercial rock lobster fishery is to be allocated 90% of the total allowable catch.
- (3) The Minister is to allocate the portion of the total allowable catch allocated to the commercial rock lobster fishery to the holders of fishing licences (rock lobster) according to the number of rock lobster quota units held and owned by those licensees in respect of those licences immediately before the commencement of the period referred to in subrule (1).

10. Persons authorised to take or possess rock lobster in State waters

A person must not, in State waters, take or be in possession of rock lobster unless the person is –

- (a) the holder of a fishing licence (rock lobster); or
- (b) the holder of a recreational fishing licence; or
- (c) an Aborigine engaging in an Aboriginal activity.

Penalty: Grade 3 penalty.

10A. Persons authorised to possess rock lobster outside State waters

- (1) A person who is in possession of rock lobster on a fishing vessel in State waters must unload the rock lobster from that fishing vessel before the

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fishing vessel goes beyond the limits of State waters.

Penalty: Grade 3 penalty.

- (2) However, a person is not guilty of an offence under subrule (1) in respect of any rock lobster if –
- (a) the person has the approval of a fisheries officer to possess rock lobster on a fishing vessel in waters outside State waters; and
 - (b) the rock lobster are held in accordance with that approval.
- (3) If an approval referred to in subrule (2) is given verbally, the fisheries officer is to confirm that approval in writing to the licensee as soon as practicable after it is given.

11. Closed and open seasons, &c.

- (1) The Minister, by public notice, may determine –
- (a) the dates of the closed season for all or part of the rock lobster fishery, including a catch-cap area; and
 - (b) the dates of the open season for all or part of the rock lobster fishery, including a catch-cap area.
- (2) The Minister, by published notice, may determine any part of the rock lobster fishery, including a catch-cap area, to be closed to or in

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respect of such activities for such periods as are specified in the notice.

12. Closed seasons, &c. – general restrictions

- (1) A person must not take rock lobster from State waters that are closed to the rock lobster fishery.

Penalty: Grade 3 penalty.

- (2) A person must not be in possession of male rock lobster during a closed season for the male rock lobster fishery unless the male rock lobster were –

(a) taken, bought or sold during an open season for the male rock lobster fishery;
or

(b) in the person's possession during an open season for the male rock lobster fishery;
or

(c) imported into the State.

Penalty: Grade 3 penalty.

- (3) A person must not be in possession of female rock lobster during a closed season for the female rock lobster fishery unless the female rock lobster were –

(a) taken, bought or sold during an open season for the female rock lobster fishery; or

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(b) in the person's possession during an open season for the female rock lobster fishery; or

(c) imported into the State.

Penalty: Grade 3 penalty.

(4) A person must not be in possession of rock lobster in an area of State waters that is closed to the rock lobster fishery.

Penalty: Grade 3 penalty.

(5) In any proceedings for an offence under subrule (4), it is a defence if the defendant establishes that, at the relevant time, he or she was –

(a) the holder of a fishing licence (rock lobster); and

(b) merely transiting the relevant area of State waters.

(6) A person must not contravene a determination in force under rule 11(2) in respect of the rock lobster fishery.

Penalty: Grade 3 penalty.

13. Restrictions on possession of female rock lobster during closed season for female rock lobster

(1) The holder of a fishing licence (rock lobster) must not, during a closed season for the female rock lobster fishery, be in possession of female

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rock lobster in a fish cauf unless the female rock lobster were taken before that closed season commenced.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) must not, during a closed season for the female rock lobster fishery, be in possession of female rock lobster on a fishing vessel unless –
- (a) the fishing vessel is in a port that it had returned to before, and not left since, that closed season commenced; or
 - (b) the fishing vessel is on an authorised mooring that it had returned to before, and not left since, that closed season commenced; or
 - (c) the fishing vessel is returning to a port of landing within 48 hours after the end of an open season.

Penalty: Grade 3 penalty.

- (2A) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (2) in respect of any rock lobster that were taken legally by reason only of the fact that the vessel is transiting an area of State waters.
- (3) The holder of a fishing licence (rock lobster) who, following a fishing trip, is in possession of female rock lobster on a fishing vessel during a closed season for the female rock lobster fishery must unload the female rock lobster before the

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fishing vessel is used by any person for a further fishing trip.

Penalty: Grade 3 penalty.

- (4) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (2) or (3) in respect of any female rock lobster if –
 - (a) the licensee has the approval of a fisheries officer to use alternative arrangements for holding female rock lobster on a fishing vessel during a closed season for the female rock lobster fishery; and
 - (b) the female rock lobster are held in accordance with that approval.
- (5) If an approval under subrule (4) is given verbally, the fisheries officer is to confirm that approval in writing to the licensee as soon as practicable after it is given.

14. Restrictions on possession of rock lobster on fishing vessel during closed season for male rock lobster

- (1) The holder of a fishing licence (rock lobster) who is in possession of rock lobster on a fishing vessel during a closed season for the male rock lobster fishery is guilty of an offence unless the licensee does all of the following:
 - (a) makes a closed season report within 24 hours after the commencement of that closed season;

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- (b) within 14 days after the commencement of that closed season –
 - (i) weighs the rock lobster, if any, that have not been unloaded; and
 - (ii) after the weighing, completes the required sections of Part A of a commercial rock lobster quota docket; and
 - (iii) sends the pink and yellow sheets of the commercial rock lobster quota docket (with the required sections of Part A of the docket completed) to the Secretary;
- (c) unloads all the rock lobster before the commencement of that licensee's first fishing trip of the next open season for the male rock lobster fishery;
- (d) whenever any of the rock lobster are unloaded from the fishing vessel –
 - (i) completes a new commercial rock lobster quota docket in accordance with Division 2 of Part 6; and
 - (ii) enters, on the new commercial rock lobster quota docket, the number of the docket referred to in paragraph (b)(ii).

Penalty: Grade 3 penalty.

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- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –
- (a) that licensee has the Secretary’s written approval to use alternative arrangements when holding rock lobster on a fishing vessel during a closed season for the male rock lobster fishery; and
 - (b) the rock lobster are held in accordance with that approval.
- (3) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster that were taken legally by reason only of the fact that the vessel is transiting an area of State waters.

15. Daily bag limit for persons who are not commercial fishers

A person must not take more than 5 rock lobster on any one day unless the person is the holder of a fishing licence (rock lobster).

Penalty: Grade 3 penalty.

16. Overall possession limit

- (1) A person must not be in possession of more than 2 rock lobster at any one time unless –
- (a) the person is the holder of a fishing licence (rock lobster); or

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- (b) the person is a non-commercial fisher; or
- (c) the person has purchased the excess rock lobster and –
 - (i) has a receipt verifying that purchase; or
 - (ii) the excess rock lobster are all tagged in accordance with rule 97(2); or
- (d) the person has a transfer document verifying that the excess rock lobster were sold or transferred to the person by the holder of a fishing licence (rock lobster).

Penalty: Grade 3 penalty.

(2) In this rule –

excess rock lobster means rock lobster in excess of 2 rock lobster;

transfer document means –

- (a) a commercial rock lobster quota docket; or
- (b) a commercial rock lobster and giant crab direct sales quota docket; or
- (c) a commercial rock lobster and giant crab sales receipt.

17. Size limits – rock lobster

A person must not take, buy, sell or be in possession of –

- (a) a male rock lobster that has a carapace shorter than 110 millimetres; or
- (b) a female rock lobster that has a carapace shorter than 105 millimetres.

Penalty: Grade 3 penalty.

17A. Size limits – female rock lobster from north-western region

- (1) A person must not take any female rock lobster with a carapace shorter than 120 millimetres from the north-western region.

Penalty: Grade 3 penalty.

- (2) A person must not have possession of any female rock lobster with a carapace shorter than 120 millimetres in the north-western region.

Penalty: Grade 3 penalty.

- (3) It is a defence in proceedings for an offence against subrule (2) if the defendant establishes that –

- (a) at the relevant time, he or she was –
 - (i) the holder of a fishing licence (rock lobster); and

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- (ii) merely transiting the north-western region; and
- (b) the female rock lobster was taken legally from State waters outside the north-western region.
- (4) If a non-commercial fisher undertakes a fishing trip for rock lobster in the north-western region, he or she must not, within the immediate proximity of the site of unloading, be in possession of any female rock lobster with a carapace shorter than 120 millimetres.

Penalty: Grade 3 penalty.

18. Size limit – rock lobster tail

A person must not be in possession of a rock lobster tail that measures less than 50 millimetres across the widest point of the anterior end of the tail.

Penalty: Grade 3 penalty.

19. Protection of female breeding stock

A person must not –

- (a) take, buy, sell or be in possession of a female rock lobster having any spawn or eggs attached to it; or
- (b) remove from a female rock lobster any spawn or eggs; or

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- (c) remove from a female rock lobster the setae or fibres to which any eggs are or have been attached; or
- (d) be in possession of a female rock lobster from which any spawn, eggs, setae or fibres have been removed.

Penalty: Grade 3 penalty.

20. Dismembering rock lobster, &c.

- (1) A person must not, in State waters, be in possession of a rock lobster that is dismembered or cut up.

Penalty: Grade 3 penalty.

- (2) A person is not guilty of an offence under subrule (1) by –
 - (a) being in possession of a single cut up or dismembered rock lobster on a fishing vessel if –
 - (i) the holder of a fishing licence (rock lobster) is on the fishing vessel; and
 - (ii) the fishing vessel is not in port; or
 - (b) being in possession of a single cut up or dismembered rock lobster on a vessel being used for the purposes of the non-commercial rock lobster fishery if –

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- (i) a non-commercial fisher is on the vessel; and
- (ii) the vessel is not in port; or
- (c) being in possession of dismembered or cut up rock lobster, or rock lobster meat, that has been purchased from a fish merchant or retail outlet.

21. Rock lobster not to be used as bait in fishing apparatus

A person must not, in State waters –

- (a) use rock lobster or any part of a rock lobster as bait in any apparatus; or
- (b) cause or allow rock lobster or any part of a rock lobster to be used as bait in any apparatus.

Penalty: Grade 3 penalty.

22. Rock lobster not to be taken in Taroona waters

A person must not, in Taroona waters, take or be in possession of rock lobster.

Penalty: Grade 3 penalty.

23. Persons authorised to possess untagged or unmarked rock lobster

A person must not be in possession of rock lobster that are not marked in accordance with

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rule 40 or tagged in accordance with rule 97
unless that person is –

- (a) a fish processor whose fish processing licence authorises the possession of rock lobster; or
- (b) a fish handler whose handling licence authorises the possession of rock lobster; or
- (c) the holder of a fishing licence (rock lobster).

Penalty: Grade 3 penalty.

**PART 3 – NON-COMMERCIAL ROCK LOBSTER
FISHERY**

Division 1 – General matters

24. Restrictions on non-commercial taking of rock lobster

- (1) A person must not take rock lobster for non-commercial purposes unless the person is –
- (a) the holder of a recreational fishing licence; or
 - (b) an Aborigine engaging in an Aboriginal activity.

Penalty: Grade 3 penalty.

- (2) A person must not take rock lobster for non-commercial purposes by means of any apparatus other than a rock lobster pot or rock lobster ring.

Penalty: Grade 2 penalty.

- (3) A person must not take rock lobster for non-commercial purposes by means of a rock lobster pot unless the person is –
- (a) the holder of a fishing licence (recreational rock lobster pot); or
 - (b) an Aborigine engaging in an Aboriginal activity.

Penalty: Grade 3 penalty.

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- (4) A person must not take rock lobster for non-commercial purposes by means of a rock lobster ring unless the person is –
- (a) the holder of a fishing licence (recreational rock lobster ring); or
 - (b) an Aborigine engaging in an Aboriginal activity.

Penalty: Grade 3 penalty.

- (5) A non-commercial fisher must not, in State waters, take or be in possession of rock lobster during a fishing trip on which fishing for commercial purposes is carried out under the authority of another licence.

Penalty: Grade 3 penalty.

25. Diving restrictions

- (1) A person must not take rock lobster for non-commercial purposes by diving unless the person is –
- (a) the holder of a fishing licence (recreational rock lobster dive); or
 - (b) an Aborigine engaging in an Aboriginal activity.

Penalty: Grade 3 penalty.

- (2) A person must not, when diving in State waters, take rock lobster by any means other than a bare or gloved hand.

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Penalty: Grade 3 penalty.

- (3) A non-commercial fisher must not, in State waters –
- (a) be in possession of a crook while diving;
or
 - (b) be in possession of a noose while diving;
or
 - (c) be in possession of a noose on a fishing vessel.

Penalty: Grade 3 penalty.

- (4) In any proceedings for an offence under subrule (3)(c), it is a defence if the defendant establishes that –
- (a) the relevant noose was a device (commonly known as a “snooter”) which was on the relevant vessel only for the purposes of game fishing; and
 - (b) the relevant vessel was –
 - (i) in a port or on an authorised mooring; or
 - (ii) on a fishing trip during which no diving for rock lobster was carried out.

- (5) In this rule –

noose means a device comprising a loop that is –

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- (a) formed from rope, cord or wire;
and
- (b) attached to a pole, rod or tube.

26. Restrictions on non-commercial setting and use, &c., of rock lobster pots

- (1) A non-commercial fisher must not, in State waters, set or use or be in possession of more than one rock lobster pot at any one time.

Penalty: Grade 3 penalty.

- (2) A non-commercial fisher must not, in State waters, set or use or be in possession of a rock lobster pot during a fishing trip on which fishing of any kind for commercial purposes is carried out.

Penalty: Grade 3 penalty.

- (3) A non-commercial fisher must not, in State waters, set a rock lobster pot for a continuous period exceeding 48 hours.

Penalty: Grade 3 penalty.

- (4) A non-commercial fisher is not guilty of an offence under subrule (3) in respect of a rock lobster pot if –

- (a) the rock lobster pot cannot be retrieved within 48 hours after it is set because of –

- (i) adverse weather conditions; or

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- (ii) mechanical breakdown of, or structural damage to, the vessel from which the rock lobster pot is set; or
 - (iii) illness or incapacity of the licensee; and
 - (b) the non-commercial fisher notifies a fisheries officer, within 48 hours after the rock lobster pot is set, that the rock lobster pot cannot be retrieved within that period and the reason why it cannot be so retrieved; and
 - (c) the non-commercial fisher, within 48 hours after giving the notification referred to in paragraph (b), notifies a fisheries officer of the arrangements made to retrieve the rock lobster pot; and
 - (d) the non-commercial fisher ensures that the rock lobster pot is retrieved in accordance with such directions as the fisheries officer referred to in paragraph (c) may give for its retrieval.
- (5) For the purposes of subrule (4)(b) and (c), a non-commercial fisher has not notified a fisheries officer unless the non-commercial fisher has complied with any requirements of that fisheries officer in relation to the giving of that notification.

27. Restrictions on non-commercial setting and use, &c., of rock lobster rings

- (1) A non-commercial fisher must not, in State waters, set or use or be in possession of more than 4 rock lobster rings at any one time.

Penalty: Grade 3 penalty.

- (2) A non-commercial fisher must not, in State waters, set or use or be in possession of a rock lobster ring during a fishing trip on which fishing for commercial purposes is carried out.

Penalty: Grade 3 penalty.

Division 2 – Non-commercial fishing licences

28. Authority of recreational fishing licences

- (1) A fishing licence (recreational rock lobster dive) only authorises its holder to take rock lobster by means of diving for recreational fishing.
- (2) A fishing licence (recreational rock lobster pot) only authorises its holder to –
- (a) use one rock lobster pot to take rock lobster for recreational fishing; and
 - (b) take one giant crab on any one day; and
 - (c) be in possession, in State waters, of one giant crab at any one time.
- (3) A fishing licence (recreational rock lobster ring) only authorises its holder to use up to 4 rock

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lobster rings to take rock lobster for recreational fishing.

29. Limit on number of recreational fishing licences that may be held

A person is not eligible to hold more than one of each of the recreational fishing licences specified in rule 8(b)(i), (ii), (iii) and (iv).

30. Restrictions on issue and use of special rock lobster licences

- (1) A fishing licence (recreational special rock lobster) may only be granted and issued to the holder of a recreational fishing licence.
- (2) A person may only be granted and issued with one 14-day fishing licence (recreational special rock lobster) during a 12-month period commencing on 1 November in any year.
- (3) The holder of a fishing licence (recreational special rock lobster) must not take rock lobster in the eastern region.

Penalty: Grade 2 penalty.

31. Children not eligible to hold recreational fishing licences

A child is not eligible to hold a fishing licence, class recreational.

32. Daily bag limit in eastern region

A non-commercial fisher must not, in the eastern region, take more than 2 rock lobster on any one day.

Penalty: Grade 3 penalty.

33. Possession limits

- (1) A non-commercial fisher must not be in possession of more than 10 rock lobster at any one time unless the non-commercial fisher holds a fishing licence (recreational special rock lobster).

Penalty: Grade 3 penalty.

- (2) A person who holds a fishing licence (recreational special rock lobster) must not be in possession of more than 15 rock lobster at any one time.

Penalty: Grade 3 penalty.

- (3) A non-commercial fisher must not, in State waters north of the line of latitude 39° 33' South –

- (a) take, on any one day, more than 2 rock lobster; or
- (b) be in possession, at any one time, of more than 4 rock lobster.

Penalty: Grade 3 penalty.

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- (4) A non-commercial fisher must not, in the eastern region, be in possession of more than 4 rock lobster.

Penalty: Grade 3 penalty.

- (5) A non-commercial fisher must not, within the immediate proximity of the site of unloading in the eastern region, be in possession of more than 4 rock lobster.

Penalty: Grade 3 penalty.

- (6) Subrule (5) does not apply to a non-commercial fisher if –

(a) the non-commercial fisher is a resident of a permanent dwelling within 100 metres of the site of unloading in the eastern region; and

(b) the excess rock lobster in the non-commercial fisher's possession are in that permanent dwelling.

- (7) In this rule –

dwelling includes the curtilage of the dwelling;

excess rock lobster means rock lobster in excess of 4 rock lobster;

permanent dwelling includes a shack, but does not include –

- (a) a portable or demountable dwelling such as a tent; or

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- (b) a mobile or transportable dwelling such as a campervan, caravan or shipping container, even when fixed in place; or
- (c) commercial or industrial premises.

34. Boat limits

- (1) This rule applies to the person in charge of a vessel that is being used for a fishing trip in the non-commercial rock lobster fishery.
- (2) The person is guilty of an offence if, at any one time during the fishing trip –
 - (a) more than 5 rock lobster pots, in aggregate, are on the vessel or being used from the vessel; or
 - (b) more than 20 rock lobster rings, in aggregate, are on the vessel or being used from the vessel.

Penalty: Grade 3 penalty.

- (3) The person is guilty of an offence if –
 - (a) at any one time while the vessel is in the eastern region, more than 10 rock lobster are on the vessel; or
 - (b) at any one time while the vessel is in the northern Bass Strait area, more than 10 rock lobster are on the vessel; or

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- (c) at any one time while the vessel is in the western region (other than the northern Bass Strait area), more than 25 rock lobster are on the vessel.

Penalty: Grade 3 penalty.

- (4) In this rule –

northern Bass Strait area means that area of State waters within the western region north of a line of latitude 39° 33' South.

Division 3 – Identification, &c.

35. Identification of non-commercial fishers

- (1) Each non-commercial fisher is required to have a unique identifying code (“UIC”) for the purposes of the rock lobster fishery.
- (2) The UIC is to be allotted –
 - (a) in the case of the holder of a recreational fishing licence, by the Secretary when the licence is issued; and
 - (b) in the case of an Aborigine engaging in an Aboriginal activity, by the Secretary or by a means approved by the Secretary.
- (3) Despite subrule (2)(a), if for any reason the holder of a recreational fishing licence is not issued with a UIC when the licence is issued, the Secretary may issue the UIC when the licence is renewed or varied or at such other time as

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Secretary agrees or considers expedient in the circumstances.

- (4) Subject to subrules (2) and (3), the Secretary must not refuse to issue the holder of a recreational fishing licence with a UIC or, having issued it, take any action purporting to strip the licensee of the UIC.
- (5) A non-commercial fisher is personally responsible for ensuring that he or she knows his or her UIC.
- (6) However, the Secretary may issue such notices and advice, answer such queries and take such other measures as he or she considers necessary or expedient to make the holders of recreational fishing licences aware of their UIC.
- (7) A UIC is not a transferable or tradeable commodity.

36. Identification of rock lobster pots, rock lobster rings and fish caufs

- (1) A non-commercial fisher must not set or use a rock lobster pot unless –
 - (a) a marker buoy is attached to the rock lobster pot; and
 - (b) the non-commercial fisher's UIC is clearly and legibly marked on the marker buoy, in standard lettering; and

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- (c) the letter “P” is clearly and legibly marked on the marker buoy, in standard lettering.

Penalty: Grade 2 penalty.

- (2) A non-commercial fisher must not set or use a rock lobster ring unless –
 - (a) a marker buoy is attached to the rock lobster ring; and
 - (b) the non-commercial fisher’s UIC is clearly and legibly marked on the marker buoy, in standard lettering; and
 - (c) the letter “R” is clearly and legibly marked on the marker buoy, in standard lettering.

Penalty: Grade 2 penalty.

- (3) A non-commercial fisher must not set or use a fish cauf unless –
 - (a) a yellow marker buoy is attached to the fish cauf; and
 - (b) the non-commercial fisher’s UIC is clearly and legibly marked on the marker buoy, in standard lettering.

Penalty: Grade 2 penalty.

- (4) A non-commercial fisher must ensure that the marker buoy attached to any rock lobster pot, rock lobster ring or fish cauf set or used by the non-commercial fisher does not bear any

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identifying mark other than a mark required by, as the case requires, subrule (1)(b) and (c), subrule (2)(b) and (c) or subrule (3)(b).

Penalty: Grade 2 penalty.

- (4A) Subrules (1), (2) and (4) do not apply to an Aborigine in respect of the setting or use of a rock lobster pot or rock lobster ring when engaging in an Aboriginal activity if –
- (a) a UIC was allocated to that Aborigine by a means approved by the Secretary under rule 35(2)(b); and
 - (b) that UIC is clearly and legibly marked on that rock lobster pot or rock lobster ring in such a way that the UIC is located above the surface of the water, or on the surface of the water, or within 300mm of the surface of the water.
- (5) In any proceedings for an offence under subrule (2), it is a defence if the defendant establishes that the defendant was at all times within the immediate proximity of the rock lobster ring.
- (6) In any proceedings for an offence under subrule (1), (2) or (3), it is not a defence for the defendant to establish that he or she did not know his or her UIC.
- (7) In this rule –

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standard, lettering, means in letters or numerals each at least 70 millimetres high and at least 12 millimetres wide.

36A. Identification of rock lobster pots and rock lobster rings used in Aboriginal activities

- (1) The Secretary, by notice published in the *Gazette*, may determine the manner in which rock lobster pots and rock lobster rings are to be identified when set or used by Aborigines who –
 - (a) are engaged in Aboriginal activities; and
 - (b) have been allotted a UIC by a means approved by the Secretary under rule 35(2)(b).
- (2) A determination made under subrule (1) may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstances or otherwise, specified in the determination.
- (3) For the purposes of making a determination under subrule (1), and without the generality of that subrule, the Secretary may adopt or incorporate a means of identification approved or recommended by any Aboriginal community body.
- (4) An Aborigine must ensure that a rock lobster pot or rock lobster ring used when engaging in an Aboriginal activity is identified in the manner determined under subrule (1) if that rock lobster pot or rock lobster ring is identified with a UIC

allotted by a means approved by the Secretary under rule 35(2)(b).

Penalty: Grade 2 penalty.

37. Fishing apparatus tags for non-commercial fishers

The Secretary may issue or approve a unique tag for a non-commercial fisher to use in connection with –

- (a) in the case of the holder of a recreational fishing licence, an apparatus authorised to be used under the licence; or
- (b) in the case of an Aborigine, an apparatus authorised to be used for an Aboriginal activity.

38. Use of fishing apparatus tags

- (1) This rule applies if, under rule 37, the Secretary issues or approves a fishing apparatus tag (“**tag**”) for a non-commercial fisher to use in connection with an apparatus.
- (2) The non-commercial fisher must not set or use the apparatus in State waters for the purposes of the non-commercial rock lobster fishery unless the tag –
 - (a) is attached to the apparatus; and
 - (b) is clearly visible on the surface of the water.

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Penalty: Grade 2 penalty.

- (3) However, if the tag is destroyed or lost –
- (a) the non-commercial fisher, for 14 days after the date of learning of the destruction or loss, may use the apparatus without the tag if a buoy clearly marked with that date is attached to the apparatus; and
 - (b) the Secretary, if satisfied as to the destruction or loss of the tag, and on payment of the prescribed fee, if any, may issue the non-commercial fisher with a new tag.

Division 4 – Miscellaneous

39. Non-commercial use of fish caufs

- (1) A non-commercial fisher must not place or hold a rock lobster in a fish cauf unless the rock lobster is marked in accordance with rule 40.

Penalty: Grade 3 penalty.

- (2) A non-commercial fisher must not use more than one fish cauf at any one time.

Penalty: Grade 2 penalty.

- (3) A non-commercial fisher who places or holds a rock lobster in a fish cauf being used by another person must ensure that the rock lobster is placed or held in a compartment that is –

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-
- (a) entirely separate from each compartment in which the other person is holding rock lobster; and
 - (b) marked with the non-commercial fisher's UIC.

Penalty: Grade 2 penalty.

- (4) For the purposes of this rule, a fish cauf is taken to be in use if one or more rock lobster are in the fish cauf.
- (5) In this rule –

compartment means compartment of a fish cauf.

40. Marking of rock lobster

- (1) A non-commercial fisher who takes a rock lobster by any means and then brings it to a vessel must ensure that –
 - (a) the central segment of the rock lobster's tail fan is marked in the prescribed manner; and
 - (b) the marking required by paragraph (a) is done within 5 minutes after the rock lobster is brought to the vessel and before the vessel returns to shore.

Penalty: Grade 2 penalty.

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- (2) A non-commercial fisher who takes a rock lobster by any means from the shore must ensure that –
- (a) the central segment of the rock lobster's tail fan is marked in the prescribed manner; and
 - (b) the marking required by paragraph (a) is done within 5 minutes after the rock lobster is landed and within 50 metres of the place of landing.

Penalty: Grade 2 penalty.

- (3) A person must not return to the wild a rock lobster that has been marked in the prescribed manner.

Penalty: Grade 3 penalty.

- (4) A person must not buy or sell a rock lobster that has had any part of the central segment of its tail fan removed.

Penalty: Grade 3 penalty.

- (5) In this rule –

prescribed manner, of marking the central segment of the tail fan of a rock lobster, means –

- (a) punching the central segment with a hole that is at least 10 millimetres in diameter; or

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- (b) removing, by means of a transverse cut, the posterior quarter so that only the anterior three-quarters of the central segment remains attached to the rock lobster.

41. Taking and possession of giant crab

A non-commercial fisher must not, in State waters –

- (a) take more than one giant crab on any one day; or
- (b) be in possession of more than one giant crab at any one time.

Penalty: Grade 3 penalty.

PART 4 – COMMERCIAL ROCK LOBSTER FISHERY

***Division 1 – Taking and catch controls and catch
management***

42. Taking of rock lobster

(1) A person must not take rock lobster for commercial purposes unless the person is the holder of –

- (a) a fishing licence (rock lobster); and
- (b) a fishing licence (personal).

Penalty: Grade 3 penalty.

(2) A person must not take rock lobster for commercial purposes otherwise than by means of –

- (a) a rock lobster pot; or
- (b) a rock lobster ring.

Penalty: Grade 3 penalty.

(3) The holder of a fishing licence (rock lobster) must not use a fishing vessel for the purpose of taking rock lobster if the fishing vessel is not specified in the relevant fishing certificate.

Penalty: Grade 3 penalty.

(4) The holder of a fishing licence (rock lobster) must not take rock lobster unless the number of rock lobster quota units and rock lobster research

quota units that may be taken under the licence is specified in the licence.

Penalty: Grade 3 penalty.

43. Fishing quota unit balance not to be exceeded

- (1) The holder of a fishing licence (rock lobster) must not, for commercial purposes, take, or in State waters be in possession of, more rock lobster than the fishing quota unit balance for the licence.

Penalty: Grade 3 penalty.

- (2)

- (3) However, it is a defence in any proceedings for an offence under subrule (1) in respect of any rock lobster if the defendant establishes that –

(a) the rock lobster died after being caught and the defendant complied with rule 70;
or

(b) the rock lobster were retained for personal use in accordance with rule 74.

44. Overcatch provisions

- (1) Despite rule 43(1), the holder of a fishing licence (rock lobster) is not guilty of an offence under that rule in respect of any rock lobster if –

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- (a) the total amount of rock lobster does not exceed the licence quota unit balance for the licence by more than 30%; and
- (b) the licensee –
 - (i) pays to the Crown, in respect of the excess rock lobster, an amount equivalent to 150% of their beach price; or
 - (ii) does one of the following:
 - (A) not commence another fishing trip until additional rock lobster quota units are specified in the licence so as to make its fishing quota unit balance greater than zero;
 - (B) requests (if another fishing trip is not commenced in the quota year during which the excess rock lobster are taken or possessed) that the Secretary deduct from the fishing quota unit balance for the licence for the following quota year an amount of rock lobster equivalent to the excess rock lobster.

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(2) The Minister is to ensure that any of the excess rock lobster not paid or accounted for under subrule (1) are deducted from the fishing quota unit balance for the licence for –

- (a) the quota year in which the excess rock lobster are taken; or
- (b) if that is not practicable, a subsequent quota year.

(3) In this rule –

beach price means the monthly average price paid for rock lobster as determined by the Secretary;

excess rock lobster, for a fishing licence, means rock lobster in excess of its fishing quota unit balance;

licence quota unit balance, for a fishing licence, means the sum of the following (exclusive of any weight of rock lobster returned to the fishing vessel or fish cauf subject to a cancellation report):

- (a) the weight of the rock lobster quota units specified in the licence that remain to be caught and unloaded at the relevant time;
- (b) the weight of any rock lobster quota units transferred to or from the licensee since the relevant time;

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- (c) the weight of any rock lobster research quota units transferred to or from, or allocated to, the licence since the relevant time;
- (d) the weight of any deduction, permitted by these rules, from a previous quota year;

relevant time means –

- (a) in respect of the period immediately preceding the unloading of the first rock lobster in a quota year, the time when, in that quota year, a fishing licence comes into force; or
- (b) in respect of any other period, the time of the commencement of a fishing trip.

45. Deduction of excess catch from quota

- (1) This rule applies if the holder of a fishing licence (rock lobster) –
 - (a) takes, or is in State waters in possession of, more rock lobster than the fishing quota unit balance for the licence; and
 - (b) the rock lobster so taken, or possessed in State waters, exceed the licence quota unit balance for the licence by more than 30%.

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- (2) The Minister is to deduct the excess rock lobster, up to a maximum of 30% above the fishing quota unit balance for the licence, from –
- (a) the fishing quota unit balance for the licence for the quota year during which the excess rock lobster are taken or possessed; or
 - (b) the fishing quota unit balance for the licence for a subsequent quota year.
- (3) Nothing in this rule is to be taken as preventing any proceedings or other action from being taken in respect of the taking or possession of the excess rock lobster that exceeds the fishing quota unit balance for the licence by more than 30%.
- (4) In this rule –

excess rock lobster, for a fishing licence, has the same meaning as in rule 44;

licence quota unit balance, for a fishing licence, has the same meaning as in rule 44.

46. Commercial rock lobster quota docket book

- (1) The holder of a fishing licence (rock lobster) must, during a fishing trip in a quota year, keep the licensee's commercial rock lobster quota docket book on the vessel used for the fishing trip.

Penalty: Grade 2 penalty.

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- (2) The holder of a fishing licence (rock lobster) must ensure that a commercial rock lobster quota docket book kept on a vessel during a fishing trip in a quota year pursuant to subrule (1) contains the white sheet of every commercial rock lobster quota docket comprising that book (whether or not the commercial rock lobster quota docket has been completed).

Penalty: Grade 2 penalty.

- (3) In this rule –

commercial rock lobster quota docket book
means the book of commercial rock lobster quota dockets most recently issued to a licensee for the purposes of the Act.

47. Deduction from quota at end of quota year

- (1) The holder of a fishing licence (rock lobster) must not be in possession of rock lobster on a fishing vessel after the end of the quota year during which the rock lobster are taken unless the licensee –
- (a) within 48 hours after the commencement of the quota year following the quota year in which the rock lobster are taken –
- (i) weighs the rock lobster; and
- (ii) after the weighing, completes the required sections of Part A of a

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commercial rock lobster quota docket; and

- (iii) sends the pink and yellow sheets of the commercial rock lobster quota docket (with the required sections of Part A of the docket completed) to the Secretary; and
- (b) unloads all the rock lobster before the commencement of that licensee's first fishing trip of the quota year following the quota year in which the rock lobster are taken; and
- (c) whenever any of the rock lobster are unloaded –
 - (i) completes a new commercial rock lobster quota docket in accordance with Division 2 of Part 6; and
 - (ii) enters, on the new commercial rock lobster quota docket, the number of the docket referred to in paragraph (a)(ii).

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –
 - (a) the licensee has the written approval of a fisheries officer to use alternative arrangements for holding rock lobster on

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- a fishing vessel after the end of a quota year; and
 - (b) the rock lobster are held in accordance with that approval.
- (3) The holder of a fishing licence (rock lobster) must not hold rock lobster in a fish cauf after the end of the quota year during which the rock lobster are taken unless the licensee –
- (a) within 48 hours after the commencement of the quota year following the quota year in which the rock lobster are taken –
 - (i) weighs the rock lobster; and
 - (ii) after the weighing, completes the required sections of Part A of a commercial rock lobster quota docket; and
 - (iii) sends the pink and yellow sheets of the commercial rock lobster quota docket (with the required sections of Part A of the docket completed) to the Secretary; and
 - (b) unloads all the rock lobster from the fish cauf before placing in the fish cauf any other rock lobster; and
 - (c) whenever any of the rock lobster are unloaded –
 - (i) completes a new commercial rock lobster quota docket in

accordance with Division 2 of Part 6; and

- (ii) enters, on that new commercial rock lobster quota docket, the number of the docket referred to in paragraph (a)(ii).

Penalty: Grade 3 penalty.

48. Research quota units

- (1) The Secretary may allocate a research quota unit to the holder of a fishing licence (rock lobster).
- (2) A research quota unit allocated to the holder of the fishing licence (rock lobster) under subrule (1) authorises that licensee to take, for commercial purposes, the weight of rock lobster determined under subrule (3)(a).
- (3) The Secretary is to determine –
 - (a) the weight of rock lobster that may be taken under a research quota unit; and
 - (b) the conditions on which the rock lobster may be taken.
- (4) The Secretary is not to allocate research quota units so that the total weight of those research quota units exceeds 1% of the total allowable catch for the commercial rock lobster fishery.
- (5) The holder of a fishing licence (rock lobster) who has been allocated a research quota unit

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under subrule (1) must comply with the conditions determined under subrule (3)(b).

Penalty: Grade 3 penalty.

- (6) A research quota unit may be transferred on a seasonal basis.
- (7) A research quota unit is not to be transferred on a permanent basis.
- (8) In this rule –

permanent basis means continuing in force and effect, subject to the Act, indefinitely;

seasonal basis, in relation to transferred research quota units, means research quota units that have force and effect only for the remainder of the term of the licence to which they are transferred.

Division 2 – Commercial fishing licences

49. Authority of fishing licence (rock lobster)

A fishing licence (rock lobster) only authorises its holder to –

- (a) take the weight of rock lobster represented by the rock lobster quota units specified in the licence; and
- (b) take the weight of rock lobster equivalent to the total weight determined under

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rule 48(3)(a) for the research quota units,
if any, specified in the licence; and

- (c) take rock lobster for sale; and
- (d) use the number of rock lobster pots specified in the licence; and
- (e) use the fishing vessel specified in the relevant fishing certificate to take rock lobster; and
- (f)
- (g) take up to 50 kilograms of giant crab during the period of the licence and in State waters be in possession of 10 or fewer giant crab at any one time; and
- (h) use up to 4 rock lobster rings at any one time; and
- (i) take up to 50 kilograms of inshore crab during a fishing trip and in State waters be in possession of up to 50 kilograms of inshore crab at any one time.

50. Certain fishing licence (rock lobster) applications to be granted

If the Minister is satisfied that there is no impediment under section 78 of the Act to granting an application for a fishing licence (rock lobster), the Minister is to grant the application if the applicant –

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- (a) held a fishing licence (rock lobster) on the 28 February most immediately preceding the application lodgment date; and
- (b) had not, before the application lodgment date, transferred that fishing licence (rock lobster) to another person.

51. Cap on number of fishing licences (rock lobster)

The Minister is to ensure that no more than 312 fishing licences (rock lobster) are in force at any one time.

52. Maximum licence holdings

The holder of a fishing licence (rock lobster) must not –

- (a) hold more than 7 separate fishing licences (rock lobster) at any one time; or
- (b) receive any payment, financial advantage or benefit in kind from more than 7 separate fishing licences (rock lobster).

Penalty: Grade 3 penalty.

53. Current copy of licence to be kept on fishing vessel during fishing trip

- (1) The holder of a fishing licence (rock lobster) must, during a fishing trip, keep a current copy

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of the licence on the vessel used for the fishing trip.

Penalty: Grade 2 penalty.

(2) In this rule –

current copy of the licence means the copy of the licence –

- (a) issued for the quota year in which the relevant fishing trip takes place; and
- (b) showing the number of rock lobster pots that the holder of the licence is entitled to use when the relevant fishing trip takes place.

Division 3 – Quota units

54. Allocation of rock lobster quota units

- (1) The Minister is to allocate rock lobster quota units to the holders of fishing licences that entitle the taking of rock lobster for commercial purposes.
- (2) A fishing licence (rock lobster) is to specify the number of rock lobster quota units to which the holder of the licence is entitled.
- (3)

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55. Minimum and maximum quota unit holdings

- (1) The number of rock lobster quota units held on a licence is to be at least one and not more than 200.
- (2) The holder of a fishing licence (rock lobster) must not –
 - (a) hold more than 200 rock lobster quota units at any one time; or
 - (b) receive any payment, financial advantage or benefit in kind from more than 200 rock lobster quota units.

Penalty: Grade 3 penalty.

56. Requirements relating to licences with fewer than 15 quota units

- (1) A fishing licence (rock lobster) that has fewer than 15 seasonal rock lobster quota units specified in it is to –
 - (a) be endorsed with a condition that prohibits the licence from being used to take fish unless the Secretary authorises it to be so used; or
 - (b) have at least one rock lobster quota unit specified in it and be on the same relevant fishing certificate as a fishing licence (giant crab) that has at least 15 giant crab quota units specified in it.

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- (1A) A person who holds a fishing licence (rock lobster) that is endorsed with the condition specified in subrule (1)(a) must not take any fish under the licence without the Secretary's authority.

Penalty: Grade 3 penalty.

- (2) In this rule –

giant crab quota unit has the same meaning as in the *Fisheries (Giant Crab) Rules 2013*;

seasonal rock lobster quota units means rock lobster quota units that have force and effect only for the term, or, if applicable, the remainder of the term, of the licence in which they are specified.

57. Transfer of rock lobster quota units, &c.

- (1) The Minister is not to transfer rock lobster quota units or research quota units to a person who does not hold a fishing licence (rock lobster).
- (2) The Minister is not to transfer rock lobster quota units or research quota units unless the fishing quota unit balance for the fishing licence from which they are transferred is reduced by a weight equivalent to the number of rock lobster quota units or research quota units transferred.
- (3) The Minister is not to transfer on a permanent basis rock lobster quota units that have been partially caught or research quota units unless

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they are transferred together with the fishing licence (rock lobster) in which they are specified.

- (4) The Minister is not to transfer on a seasonal basis –
- (a) rock lobster quota units that have been partially or fully caught; or
 - (b) research quota units that have been partially or fully caught.
- (5) The Minister is not to transfer a rock lobster quota unit to a person on a permanent basis without also transferring, on both a permanent and seasonal basis, the entitlement to a rock lobster pot to the person.
- (6) The Minister is not to transfer an entitlement to a rock lobster pot to a person on a permanent basis without also transferring, on both a permanent and seasonal basis, a rock lobster quota unit to the person.
- (7) In this rule –
- permanent*, in relation to transferred rock lobster quota units, means rock lobster quota units that, subject to the Act, continue in force and effect indefinitely;
 - seasonal*, in relation to transferred rock lobster quota units, means rock lobster quota units that have force and effect only for the term, or, if applicable, the remainder

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of the term, of the licence to which they are transferred.

57A. Carry-over of quota unit in exceptional circumstances

- (1) If the Minister is satisfied that the holder of a fishing licence (rock lobster) has, due to exceptional circumstances, been unable to catch his or her quota unit balance of rock lobster in the course of a quota year the Minister may allow the licence holder to carry an amount of rock lobster quota from the uncaught quota balance to the next quota year.
- (2) The quantity of rock lobster carried over in accordance with subrule (1) may be transferred to another holder of a fishing licence (rock lobster).

57B. Carry-over of partially caught quota unit on same entitlement

- (1) Except as provided in subrule (2), the Minister may allow a licence holder to carry over, from one quota year to the next, up to one partially caught rock lobster quota unit from the uncaught rock lobster quota unit balance on the entitlement from which the rock lobster quota unit was fished.
- (2) A partially caught rock lobster quota unit allowed to be carried over from the 2015/2016 quota year is to be carried over to the 2017/2018 quota year.

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- (3) However –
- (a) subrule (1) applies only in respect of uncaught rock lobster quota unit balances for the 2015/2016 quota year and following quota years; and
 - (b) a partially caught rock lobster quota unit that has been carried over from one quota year to the next under subrule (1) cannot be transferred from one entitlement to another.

Division 4 – Unloading, sale, transfer and transportation controls

58. All rock lobster to be unloaded

- (1) The holder of a fishing licence (rock lobster) must unload every rock lobster caught under the licence except for those that are –
- (a) retained for personal use in accordance with rule 74; or
 - (b) dealt with in accordance with rule 70.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) must unload every rock lobster –
- (a) taken from a catch-cap area, before commencing a fishing trip outside that catch-cap area; and

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- (b) taken from outside a catch-cap area before commencing a fishing trip in that catch-cap area –

except those rock lobster that are –

- (c) retained for personal use in accordance with rule 74; or
- (d) dealt with in accordance with rule 70.

Penalty: Grade 3 penalty.

- (3) The holder of a fishing licence (rock lobster) must unload every female rock lobster taken from the north-western region before commencing a fishing trip in State waters outside the north-western region.

Penalty: Grade 3 penalty.

- (4) The holder of a fishing licence (rock lobster) must unload every female rock lobster taken from State waters outside the north-western region before commencing a fishing trip in the north-western region.

Penalty: Grade 3 penalty.

59. Rock lobster to be unloaded at port of landing

- (1) The holder of a fishing licence (rock lobster) must not unload rock lobster anywhere other than at a port of landing.

Penalty: Grade 3 penalty.

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- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –
- (a) the licence is endorsed with alternative unloading conditions and the rock lobster are unloaded in accordance with those conditions; or
 - (b) the rock lobster have to be unloaded away from a port of landing in an emergency because of a threat to the safety of the fishing vessel or its crew.
- (3) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –
- (a) the licensee advises a fisheries officer of –
 - (i) the licensee’s intention to unload the rock lobster at another port in Tasmania; and
 - (ii) the location of the other port; and
 - (b) the advice to the fisheries officer is given at least 6 hours before the rock lobster are unloaded; and
 - (c) the other port is no more than 200 metres from a public road; and
 - (d) the rock lobster are unloaded between 6 a.m. and 6 p.m.; and

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- (e) the rock lobster are sold to a fish processor or fish handler.

59A. Approved ports of landing for catch-cap and other areas

- (1) The Minister, by published notice, may declare one or more ports of landing to be approved ports of landing for –
 - (a) a catch-cap area specified or described in the public notice; or
 - (b) an area of State waters, lying outside a catch-cap area, specified or described in the public notice.
- (2) If, pursuant to subrule (1)(a), there are approved ports of landing for a catch-cap area, the holder of a fishing licence (rock lobster) who takes rock lobster in that catch-cap area must not unload those rock lobster anywhere other than at a port of landing so approved.

Penalty: Grade 3 penalty.

- (3) If, pursuant to subrule (1)(b), there are approved ports of landing for an area of State waters lying outside a catch-cap area, the holder of a fishing licence (rock lobster) who takes rock lobster in that area of State waters must not unload those rock lobster anywhere other than at a port of landing so approved.

Penalty: Grade 3 penalty.

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- (4) The holder of the fishing licence (rock lobster) is not guilty of an offence under subrule (2) or (3) in respect of any rock lobster if –
- (a) the licence is endorsed with alternative unloading conditions and the rock lobster are unloaded in accordance with those conditions; or
 - (b) the rock lobster have to be unloaded away from a relevant approved port of landing in an emergency because of a threat to the safety of the fishing vessel or its crew and the licensee has the approval of a fisheries officer to unload the rock lobster at another port in Tasmania.

60. Sale or transfer of rock lobster to fish processor or handler

- (1) This rule applies if the holder of a fishing licence (rock lobster) sells or transfers, within the immediate proximity of the site of unloading, rock lobster to a fish processor or fish handler.
- (2) The holder of the fishing licence (rock lobster) is guilty of an offence unless the licensee made an unloading report at least 2 hours before the rock lobster are unloaded.

Penalty: Grade 3 penalty.

- (3) The holder of the fishing licence (rock lobster) must –

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- (a) complete Part A of a commercial rock lobster quota docket before the rock lobster are removed from the immediate proximity of the site of unloading; and
- (b) send the pink sheet of the completed commercial rock lobster quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

- (4) The holder of the fishing licence (rock lobster) is not guilty of an offence under subrule (3)(a) if –
 - (a) the rock lobster being sold or transferred are unloaded into processing premises located within the immediate proximity of the site of unloading; and
 - (b) the licensee completes Part A of a commercial rock lobster quota docket –
 - (i) before the fish processor makes the receipt report relating to the rock lobster specified in that docket; and
 - (ii) before Part B of the docket is completed; and
 - (iii) within 15 minutes after the last rock lobster relating to that docket enters any place, within the processing premises, that is fully enclosed.

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61. Transportation of rock lobster to fish processor or handler

- (1) This rule applies if the holder of a fishing licence (rock lobster) transports rock lobster to a fish processor or fish handler.
- (2) The holder of the fishing licence (rock lobster) must –
 - (a) make an unloading report at least 2 hours before the rock lobster are unloaded; and
 - (b) complete Part A of a commercial rock lobster quota docket before the rock lobster are removed from the immediate proximity of the site of unloading; and
 - (c) make a movement report before the rock lobster are removed from the immediate proximity of the site of unloading; and
 - (d) send the pink sheet of the commercial rock lobster quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

- (3) The fish processor or fish handler must complete Part B of the commercial rock lobster quota docket on receipt of the rock lobster.

Penalty: Grade 3 penalty.

62. Sale or transfer of rock lobster to person other than fish processor or handler

- (1) This rule applies if the holder of a fishing licence (rock lobster) sells or transfers rock lobster to a person other than a fish processor or fish handler.
- (2) If no more than 20 rock lobster are sold or transferred, and the sale or transfer occurs within the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –
 - (a) complete and issue a commercial rock lobster and giant crab sales receipt to the person receiving the rock lobster before the rock lobster are removed from the site of unloading; and
 - (b) tag the rock lobster in accordance with rule 97 before the rock lobster are removed from the site of unloading; and
 - (c) before midnight of the day of the sale or transfer, complete a commercial rock lobster and giant crab direct sales quota docket; and
 - (d) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

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- (3) If no more than 20 rock lobster are sold or transferred, and the sale or transfer occurs outside the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –
- (a) make an unloading report at least 2 hours before the rock lobster are removed from the immediate proximity of the site of unloading; and
 - (b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of rock lobster unloaded before the rock lobster are removed from the site of unloading; and
 - (c) tag the rock lobster in accordance with rule 97 before the rock lobster are removed from the site of unloading; and
 - (d) make a movement report before the rock lobster are removed from the site of unloading; and
 - (e) complete and issue, at the time of the sale or transfer, a commercial rock lobster and giant crab sales receipt to the person receiving the rock lobster; and
 - (f) before midnight of the day of the sale or transfer, complete the commercial rock lobster and giant crab direct sales quota docket; and
 - (g) send the pink sheet of the completed commercial rock lobster and giant crab

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direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

- (4) If more than 20 rock lobster are sold or transferred, and the sale or transfer occurs within the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –
- (a) make an unloading report at least 2 hours before the sale or transfer occurs; and
 - (b) complete a commercial rock lobster and giant crab direct sales quota docket before the rock lobster are removed from the site of unloading; and
 - (c) give the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the person receiving the rock lobster; and
 - (d) tag the rock lobster in accordance with rule 97 before the rock lobster are removed from the site of unloading; and
 - (e) make a movement report before the rock lobster are removed from the site of unloading; and
 - (f) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary

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within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

- (5) If more than 20 rock lobster are sold or transferred, and the sale or transfer occurs outside the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –
- (a) make an unloading report at least 2 hours before the rock lobster are removed from the immediate proximity of the site of unloading; and
 - (b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of rock lobster unloaded before the rock lobster are removed from the site of unloading; and
 - (c) tag the rock lobster in accordance with rule 97 before the rock lobster are removed from the site of unloading; and
 - (d) complete the commercial rock lobster and giant crab direct sales quota docket at the time of the sale or transfer; and
 - (e) make a movement report before the rock lobster are removed from the site of unloading; and
 - (f) give the yellow sheet of the completed commercial rock lobster and giant crab

direct sales quota docket to the person receiving the rock lobster; and

- (g) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

63. Return of rock lobster not sold or transferred

- (1) This rule applies if –
 - (a) the holder of a fishing licence (rock lobster) removes rock lobster from the immediate proximity of the site of unloading in order to sell or transfer the rock lobster to a person other than a fish processor or fish handler; and
 - (b) the rock lobster, or any of the rock lobster, are not so sold or transferred.
- (2) The holder of the fishing licence (rock lobster) must not return any of the rock lobster to the fishing vessel from which the rock lobster were unloaded unless that licensee has made a cancellation report.

Penalty: Grade 2 penalty.

- (3) Within 48 hours after returning any of the rock lobster to the fishing vessel or fish cauf from which the rock lobster were unloaded, the holder of the fishing licence (rock lobster) must –

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- (a) complete the required sections of Part A of a commercial rock lobster and giant crab direct sales quota docket; and
- (b) send the pink and yellow sheets of that commercial rock lobster and giant crab direct sales quota docket (with the required sections of Part A of the docket completed) to the Secretary.

Penalty: Grade 2 penalty.

64. Export of rock lobster by aircraft or vessel

- (1) This rule applies if the holder of a fishing licence (rock lobster) exports rock lobster by means of –
 - (a) an aircraft; or
 - (b) a vessel other than a fishing vessel.
- (2) If the rock lobster are exported to a person other than a fish processor or fish handler, the holder of the fishing licence (rock lobster) must –
 - (a) make an unloading report at least 2 hours before the rock lobster are removed from the site of unloading; and
 - (b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of rock lobster unloaded before the rock lobster are removed from the site of unloading; and

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- (c) make a movement report before the rock lobster are removed from the site of unloading; and
 - (d) ensure that Part B of the commercial rock lobster and giant crab direct sales quota docket is completed by a person other than the holder of the fishing licence (rock lobster) before the rock lobster are dispatched from the State; and
 - (e) ensure that the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket travels with the consignment of rock lobster; and
 - (f) send the pink sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

- (3) If the rock lobster are exported to a fish processor or fish handler, the holder of the fishing licence (rock lobster) must –
 - (a) make an unloading report at least 2 hours before the rock lobster are unloaded; and
 - (b) complete Part A of a commercial rock lobster quota docket before the rock lobster are removed from the site of unloading; and

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- (c) make a movement report before the rock lobster are removed from the site of unloading; and
- (d) ensure that Part B of the commercial rock lobster quota docket is completed by a person other than the holder of the fishing licence (rock lobster) before the rock lobster are dispatched from the State; and
- (e) ensure that the yellow sheet of the completed commercial rock lobster quota docket travels with the consignment of rock lobster; and
- (f) send the pink sheet of the completed commercial rock lobster quota docket to the Secretary within 48 hours after completing that docket.

Penalty: Grade 3 penalty.

65.

66. Sale or transfer of rock lobster from holding tank

- (1) This rule applies if the holder of a fishing licence (rock lobster) sells or transfers rock lobster held in a holding tank.
- (2) The holder of the fishing licence (rock lobster) must –

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- (a) complete and issue, at the time of the sale or transfer, a commercial rock lobster and giant crab sales receipt to the person receiving the rock lobster; and
 - (b) keep a copy of that commercial rock lobster and giant crab sales receipt –
 - (i) for at least 5 years; and
 - (ii) in good condition; and
 - (c) unless the rock lobster are being exported or being sold or transferred to a fish processor or fish handler, tag the rock lobster in accordance with rule 97.

Penalty: Grade 3 penalty.

Division 5 – Miscellaneous controls

67. Possession of abalone on fishing vessel

A person must not be in possession of abalone on a fishing vessel that is being used to take, transport or store rock lobster for commercial purposes.

Penalty: Grade 3 penalty.

68. Taking or possession of inshore crab

The holder of a fishing licence (rock lobster) must not –

- (a) take more than 50 kilograms of inshore crab during a fishing trip; or

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- (b) be in possession of more than 50 kilograms of inshore crab in State waters at any one time.

Penalty: Grade 2 penalty.

69. Taking or possession of giant crab

- (1) The holder of a fishing licence (rock lobster) must not be in possession of more than 10 giant crab in State waters at any one time unless authorised to do so by another licence.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) must not take more than 50 kilograms of giant crab during the period of the licence unless authorised to do so by another licence.

Penalty: Grade 3 penalty.

- (3) The holder of a fishing licence (rock lobster) who sells or transfers any giant crab taken under the authority of the licence must –

- (a) specify the weight of the giant crab sold or transferred on a commercial rock lobster quota docket; and
- (b) send that commercial rock lobster quota docket to the Secretary; and
- (c) give a commercial rock lobster and giant crab sales receipt to each fish processor or fish handler who receives any of the giant crab.

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Penalty: Grade 2 penalty.

- (4) The holder of a fishing licence (rock lobster) who holds or stores any giant crab taken under the authority of the licence must keep records relating to the following:
- (a) the number, form and weight of the giant crab held or stored;
 - (b) the place where the giant crab are held or stored.

Penalty: Grade 3 penalty.

- (5) The holder of a fishing licence (rock lobster) who sells giant crab taken under the authority of that licence must, for each such sale, keep records relating to the following:
- (a) the time and date of the sale;
 - (b) the number, form and weight of giant crab sold;
 - (c) the number and weight of giant crab, if any, dispatched from Tasmania;
 - (d) for a sale of 6 or more giant crab, the name and address of the purchaser;
 - (e) the price or benefit gained from the sale.

Penalty: Grade 3 penalty.

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70. Recording, &c., of dead rock lobster

- (1) This rule applies if the holder of a fishing licence (rock lobster) finds any dead rock lobster that are –
 - (a) on or from a fishing vessel; or
 - (b) in or from a fish cauf.
- (2) The holder of the fishing licence (rock lobster) must, as soon as practicable after finding the dead rock lobster –
 - (a) record, in the appropriate place on the rock lobster catch record for the day of the find, the number or, if the exact number cannot be determined, estimated number of dead rock lobster; and
 - (b) if that number or estimated number is more than 20, advise a fisheries officer before the rock lobster are removed from the fishing vessel or the immediate proximity of the fish cauf.

Penalty: Grade 3 penalty.

- (3) The holder of the fishing licence (rock lobster) must comply with such directions as a fisheries officer may give that licensee regarding the disposal of the dead rock lobster.

Penalty: Grade 3 penalty.

- (4) Dead rock lobster dealt with and disposed of in accordance with this rule –

- (a) are taken not to have been caught; and
 - (b) are not to be deducted from any rock lobster fishing quota unit balance.
- (5) The holder of a fishing licence (rock lobster) must not sell any rock lobster that have been recorded as dead in a rock lobster catch record.

Penalty: Grade 3 penalty.

71. Transfer of rock lobster between vessels

The holder of a fishing licence (rock lobster) must not, unless authorised to do so by the Secretary, transfer rock lobster, or cause or permit rock lobster to be transferred –

- (a) from one fishing vessel to another fishing vessel; or
- (b) from a fishing vessel to another kind of vessel other than an auxiliary vessel authorised under the *Fisheries Rules 2009* to be used with the fishing vessel.

Penalty: Grade 3 penalty.

72. Fishing in two jurisdictions

The holder of a fishing licence (rock lobster) who has an authority from another State to take rock lobster from that State using the fishing vessel specified in the licence must not –

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- (a) use the fishing vessel to take rock lobster in State waters if it has been used to take rock lobster outside State waters since last leaving port; or
- (b)
- (c) set or use a rock lobster pot in State waters from the fishing vessel if it has been used to set any rock lobster pots outside State waters since last leaving port.
- (d)

Penalty: Grade 3 penalty.

72A. Prohibition on possession of rock lobster taken from other States

- (1) A person must not, in State waters, be in possession of rock lobster that have been taken from the waters of a State other than Tasmania.

Penalty: Grade 3 penalty.

- (2) However, a person is not guilty of an offence under subrule (1) if the rock lobster were purchased from another State, by anybody, and the person has a receipt verifying that purchase.

73. Places where rock lobster may be held or stored

The holder of a fishing licence (rock lobster) must not, for commercial purposes, hold or store rock lobster at a place other than –

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- (a) on the fishing vessel used to take the rock lobster; or
 - (b) in a fish cauf specified for that purpose in the licence in accordance with rule 84; or
 - (c) in a holding tank specified for that purpose in the licence in accordance with rule 85; or
 - (d) at a place that the Secretary has approved in writing for the holding or storage of rock lobster by the licensee.

Penalty: Grade 3 penalty.

74. Retention of rock lobster for personal use

- (1) The holder of a fishing licence (rock lobster) must not –
 - (a) on any one day of a fishing trip, retain more than one rock lobster for personal use; or
 - (b) over the entire duration of a fishing trip, retain, in total, more than 5 rock lobster for personal use.

Penalty: Grade 2 penalty.

- (2) The holder of a fishing licence (rock lobster) must not, in a quota year, retain, in total, more than 30 rock lobster for personal use.

Penalty: Grade 2 penalty.

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- (2A) A person who is the holder of a fishing licence (rock lobster) and a recreational fishing licence must not, at any one time, be in possession of, as a combined total, more than 10 rock lobster of the following kind:
- (a) rock lobster that the person has retained for personal use under the fishing licence (rock lobster);
 - (b) rock lobster that the person has taken under the recreational fishing licence.

Penalty: Grade 3 penalty.

- (3) The Secretary may issue or approve personal possession tags for the holder of a fishing licence (rock lobster) to use in connection with this rule.
- (4) The holder of a fishing licence (rock lobster) who retains a rock lobster for personal use must –
- (a) if personal possession tags have been issued to or approved for the licensee –
 - (i) immediately affix one of those tags to the rock lobster; and
 - (ii) keep the tag so affixed until the rock lobster is consumed or unloaded (whichever occurs first); and
 - (b) record the rock lobster in the licensee's rock lobster catch record book before the

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rock lobster is unloaded from the fishing vessel used to take the rock lobster; and

- (c) if the rock lobster is unloaded, mark the rock lobster in accordance with rule 40 before it is removed from the site of unloading.

Penalty: Grade 2 penalty.

- (5) The holder of a fishing licence (rock lobster) must not use a personal possession tag more than once.

Penalty: Grade 2 penalty.

- (6) The holder of a fishing licence (rock lobster) must not –
 - (a) give a personal possession tag of the licensee to any other person; or
 - (b) cause or allow any other person to use a personal possession tag of the licensee.

Penalty: Grade 2 penalty.

- (7) In this rule –

personal possession tag means a tag issued or approved under subrule (3) .

PART 5 – FISHING APPARATUS

Division 1 – Rock lobster pots

75. Restrictions on setting, use and possession of rock lobster pots

- (1) A person must not, in State waters, set or use or be in possession of a rock lobster pot unless the person is an authorised person.

Penalty: Grade 3 penalty.

- (2) An authorised person must not set or use, or be in possession of, a rock lobster pot –
- (a) in State waters, during a closed season; or
 - (b) in a catch-cap area that is closed to fishing.

Penalty: Grade 3 penalty.

- (3) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (2) in respect of the possession of a rock lobster pot during a closed season, or in a catch-cap area that is closed to fishing, if –
- (a) the rock lobster pot is on a fishing vessel that –
 - (i) is returning to a port of landing within 48 hours after the end of an open season; or

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-
- (ii) is leaving a port within 60 hours before the commencement of an open season; or
 - (iii) is in a port of landing or on an authorised mooring and not undertaking a fishing trip; or
 - (iv) is returning to port from a part of the rock lobster fishery that is open; or
 - (b) the licensee has the approval of a fisheries officer to be in possession of the rock lobster pot during the closed season; or
 - (c) the rock lobster pot contains no bait or removable bait-holding device and the licensee –
 - (i) has the approval of a fisheries officer to set a rock lobster pot of that kind; and
 - (ii) is complying with the conditions of that approval; or
 - (d) the licence holder is transiting a closed part of the rock lobster fishery on the way to or from an open part of the fishery and the rock lobster pots do not contain bait or a removable bait-holding device.
- (4) An authorised person is not guilty of an offence under subrule (2) in respect of the possession of

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a rock lobster pot in State waters during a closed season if the possession occurs after 6 a.m. on the day immediately before the commencement of an open season.

- (5) An authorised person is not guilty of an offence under subrule (2) in respect of the setting of a rock lobster pot in State waters during a closed season if the setting occurs after 1 p.m. on the day immediately before the commencement of an open season.
- (6) A person must not, in State waters, place rock lobster in a rock lobster pot, or take rock lobster from a rock lobster pot, before the pot is hauled to the surface of the water.

Penalty: Grade 3 penalty.

- (7) In this rule –

authorised person means –

- (a) the holder of a fishing licence (rock lobster); or
- (b) the holder of a fishing licence (recreational rock lobster pot); or
- (c) an Aborigine engaging in an Aboriginal activity.

75A. Restriction on number of rock lobster pots that may be possessed, set or used in certain waters

- (1) In this rule –

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60-pot area means the area of State waters bounded in the south by a line running due south at 146° 42' 19" East on the south coast (South Cape) and bounded in the north by a line running westwards at 41° South on the west coast (Bluff Hill Point).

- (2) The holder of a fishing licence (rock lobster) must not, at any one time, set or use or be in possession of, or cause any other person to set or use or be in possession of, more than 50 rock lobster pots, in aggregate, in State waters other than waters in the 60-pot area.

Penalty: Grade 3 penalty.

- (3) It is a defence in proceedings for an offence under subrule (2) if the defendant establishes that, at the relevant time, he or she was –
- (a) transiting an area of State waters on the way to or from the 60-pot area; and
 - (b) in possession of no more than 60 rock lobster pots.
- (4) The holder of a fishing licence (rock lobster) must not, at any one time, set or use or be in possession of, or cause any other person to set or use or be in possession of, more than 60 rock lobster pots, in aggregate, in the 60-pot area.

Penalty: Grade 3 penalty.

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76. Restrictions on setting, use and possession of rock lobster pots for commercial purposes

- (1) The holder of a fishing licence (rock lobster) must not, in State waters, set or use or be in possession of, or cause any other person to set or use or be in possession of, more rock lobster pots than the number specified in the licence.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of a rock lobster pot if –
- (a) the rock lobster pot does not have bait or a bait-holding device; and
 - (b) the licensee has the approval of a fisheries officer to possess and set a rock lobster pot of that kind; and
 - (c) the licensee is complying with the conditions of that approval.

- (3) The holder of a fishing licence (rock lobster) must not, in State waters, set or use or be in possession of any rock lobster pots unless the fishing quota unit balance for the licence is greater than zero kilograms.

Penalty: Grade 3 penalty.

- (4) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (3) in respect of the possession of rock lobster pots on a fishing vessel if that fishing vessel is –

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- (a) in port or on an authorised mooring; and
 - (b) not undertaking a fishing trip.

77. Restrictions on length of time rock lobster pots may be continuously set

- (1) The holder of a fishing licence (rock lobster) must not, in State waters, set a rock lobster pot for a continuous period exceeding 48 hours.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of a rock lobster pot if –
 - (a) the rock lobster pot cannot be retrieved within 48 hours after it is set because of –
 - (i) adverse weather conditions; or
 - (ii) mechanical breakdown of, or structural damage to, the fishing vessel from which the rock lobster pot is set; or
 - (iii) illness or incapacity of the licensee; and
 - (b) the licensee notifies a fisheries officer in writing, within 48 hours after the rock lobster pot is set, that the rock lobster pot cannot be retrieved within that period and the reason why it cannot be so retrieved; and

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- (c) the licensee, within 48 hours after giving the notice referred to in paragraph (b), advises a fisheries officer of the arrangements made to retrieve the rock lobster pot; and
 - (d) the licensee ensures that the rock lobster pot is retrieved in accordance with such directions as the fisheries officer referred to in paragraph (c) may give the licensee for its retrieval.
- (3) The holder of a fishing licence is not guilty of an offence under subrule (1) in respect of a rock lobster pot if –
- (a) the rock lobster pot does not have bait or a bait-holding device; and
 - (b) the licensee has the written approval of a fisheries officer to set a rock lobster pot of that kind; and
 - (c) the licensee is complying with the conditions of that approval.

77A. Setting pots at night in catch-cap area prohibited

- (1) The holder of a fishing licence (rock lobster) must not set a rock lobster pot in a catch-cap area in the period from one hour after sunset to one hour before sunrise.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in

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respect of the first time a pot is set after a pre-fishing report has been made under rule 86A.

77B. Setting pots at night outside catch-cap area

- (1) The holder of a fishing licence (rock lobster) must not, in State waters lying outside a catch-cap area, set a rock lobster pot –
 - (a) between 11 p.m. of one day and 4 a.m. of the following day during the summer period; or
 - (b) between 10 p.m. of one day and 5 a.m. of the following day during the winter period.

Penalty: Grade 3 penalty.

- (2) Nothing in subrule (1) is to be taken as preventing the holder of a fishing licence (rock lobster) from retrieving a rock lobster pot from State waters lying outside a catch-cap area at any time of day during the summer period or winter period.
- (3) In this rule –

summer period means the period commencing on 1 November in any year and ending at midnight on 30 April in the following year;

winter period means the period commencing on 1 May in any year and ending at midnight on 31 October in the same year.

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78. Restrictions on number of rock lobster pots that may be set or used

- (1) A person must not, in State waters, set or use more than one rock lobster pot at any one time unless the person is the holder of a fishing licence (rock lobster).

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) must not, in State waters, set or use more than 2 rock lobster pots attached to the one line.

Penalty: Grade 3 penalty.

- (3) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (2) in respect of the setting or use of 2 rock lobster pots attached to the one line if –

- (a) the rock lobster pots do not have bait or a bait-holding device; and
- (b) the licensee has the written approval of a fisheries officer to set rock lobster pots of that kind or, as the case may be, use rock lobster pots of that kind; and
- (c) the licensee is complying with the conditions of that approval.

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79. Restrictions on where rock lobster pots may be set or used

- (1) A person must not set or use a rock lobster pot –
- (a) in the D’Entrecasteaux Channel; or
 - (b) in the River Derwent; or
 - (c) in Georges Bay, St Helens, west of the line of longitude of the end of the training wall situated at the entrance to Georges Bay; or
 - (d) in Taroona waters; or
 - (e) within 300 metres of the blowhole on the eastern side of King Island.

Penalty: Grade 3 penalty.

- (2) In this rule –

River Derwent means the waters upstream of an imaginary straight line from Dennes Point to Cape Direction.

80. Restrictions on configuration of rock lobster pots

- (1) A person must not, in State waters, set or use or be in possession of a rock lobster pot that does not comply with the prescribed requirements.

Penalty: Grade 3 penalty.

- (2) The prescribed requirements for subrule (1) are as follows:

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- (a) a rock lobster pot must have –
 - (i) horizontal dimensions that are no more than 1 250 millimetres by 1 250 millimetres; and
 - (ii) a vertical height of no more than 750 millimetres;
- (b) a rock lobster pot must –
 - (i) have only one neck or entrance; and
 - (ii) have only one chamber capable of trapping rock lobster; and
 - (iii) not contain anything likely to entangle rock lobster in the rock lobster pot;
- (c) a neck or entrance on a rock lobster pot must be at least 200 millimetres in diameter;
- (d) a rock lobster pot must have –
 - (i) at least one rectangular escape gap that is at least 57 millimetres high and at least 400 millimetres wide; or
 - (ii) at least 2 rectangular escape gaps, each of which is at least 57 millimetres high and at least 200 millimetres wide;

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- (e) an escape gap in a rock lobster pot must be located –
 - (i) on the side of the rock lobster pot so that the longer sides of the escape gap are generally parallel to the floor of the rock lobster pot and the lower internal edge of the escape gap is no more than 150 millimetres above the floor of the rock lobster pot; and
 - (ii) clear of any obstruction that is likely to restrict the movement of undersize rock lobster through the escape gap or otherwise impinge upon, or effectively reduce, the minimum required internal dimensions of the escape gap.

- (3) In this rule –

undersize rock lobster means a rock lobster that has a carapace less than 110 millimetres long, as determined in accordance with rule 17.

81. Marker buoy requirements for rock lobster pots

- (1) A person must not set or use a rock lobster pot in State waters unless –
 - (a) a marker buoy is at all times attached to the rock lobster pot by means of a line

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long enough for the marker buoy to float on the surface of the water; and

- (b) the marker buoy is –
 - (i) spherical in shape; and
 - (ii) at least 195 millimetres in diameter; and
 - (iii) specifically designed as a buoy.

Penalty: Grade 3 penalty.

- (2) The person in charge of a fishing vessel must ensure that the fishing vessel's distinguishing mark is marked clearly and legibly on the marker buoy of every rock lobster pot used in connection with the fishing vessel.

Penalty: Grade 3 penalty.

- (3) A distinguishing mark for the purposes of subrule (2) is to be at least 70 millimetres high and at least 12 millimetres wide.
- (4) A person who owns or is in charge of a fishing vessel must ensure that –
 - (a) a distinguishing mark marked on a marker buoy for the purposes of subrule (2) remains clear and legible; and
 - (b) the marker buoy bears only that distinguishing mark.

Penalty: Grade 1 penalty.

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- (5) A person must not, in State waters, be in possession of a device designed to conceal a marker buoy under the surface of the water.

Penalty: Grade 3 penalty.

- (6) In this rule –

distinguishing mark has the same meaning as
in the *Fisheries Rules 2009*.

Division 2 – Rock lobster rings

82. Restrictions on setting, use and possession of rock lobster rings

- (1) A person must not, in State waters, set or use or be in possession of more than 4 rock lobster rings at any one time.

Penalty: Grade 3 penalty.

- (2) A person must not, in State waters, set or use or be in possession of a rock lobster ring having –

(a) a ring that is more than one metre in diameter; or

(b) a hoop that is more than one metre in diameter.

Penalty: Grade 2 penalty.

- (3) The holder of a fishing licence (rock lobster) must not set or use a rock lobster ring in the D'Entrecasteaux Channel.

Penalty: Grade 3 penalty.

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- (4) A person must not set or use a rock lobster ring in State waters that are closed to the rock lobster fishery.

Penalty: Grade 3 penalty.

Division 3 – Fish caufs and holding tanks

83. Restrictions on attaching marker buoys to fish caufs

A person must not attach a marker buoy to a fish cauf unless the marker buoy is –

- (a) spherical in shape; and
- (b) at least 195 millimetres in diameter; and
- (c) specifically designed as a buoy.

Penalty: Grade 1 penalty.

84. Restrictions and requirements relating to fish caufs

- (1) The holder of a fishing licence (rock lobster), fish processing licence or handling licence must not –

- (a) be in possession of a fish cauf; or
- (b) place any rock lobster in a fish cauf –

unless the licence is endorsed for the use of a fish cauf.

Penalty: Grade 3 penalty.

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- (2) The holder of a fishing licence (rock lobster) that is endorsed for the use of a fish cauf must not –
- (a) use more fish caufs than the total number of fish caufs specified in that licence; or
 - (b) use a fish cauf that is not marked as specified in that licence; or
 - (c) use a fish cauf anywhere other than at the location specified in that licence; or
 - (d) place in a fish cauf rock lobster that have been taken by another person.

Penalty: Grade 2 penalty.

- (3) The holder of a fishing licence (rock lobster) that is endorsed for the use of a fish cauf must mark the fish cauf with a marker buoy in accordance with rule 83.

Penalty: Grade 2 penalty.

- (4) The holder of a fishing licence (rock lobster), fish processing licence or handling licence must not move a fish cauf from the location specified in the licence.

Penalty: Grade 3 penalty.

- (5) The holder of a fishing licence (rock lobster), fish processing licence or handling licence must make a fish cauf report within 30 minutes after –
- (a) placing rock lobster in a fish cauf; or

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- (b) causing rock lobster to be placed in a fish cauf.

Penalty: Grade 3 penalty.

- (6) The holder of a fishing licence (rock lobster) must not place rock lobster in a fish cauf on any day unless the required sections of the licensee's rock lobster catch record have been completed for that day.

Penalty: Grade 3 penalty.

- (7) A person must not remove live rock lobster from a fish cauf for any purpose other than unloading the live rock lobster.

Penalty: Grade 3 penalty.

- (8) The holder of a fishing licence (rock lobster), fish processing licence or handling licence must, if the licence is endorsed for the use of a fish cauf, keep records relating to the following matters:

- (a) the time and date of each placement of rock lobster in each fish cauf;
- (b) for each placement and removal of rock lobster in or from each fish cauf, the number of rock lobster;
- (c) the daily stock, by number, of rock lobster held in each fish cauf.

Penalty: Grade 3 penalty.

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- (9) The holder of a fishing licence (rock lobster), fish processing licence or handling licence must keep a record made for the purposes of subrule (8) –
- (a) for at least 5 years; and
 - (b) in good condition.

Penalty: Grade 3 penalty.

85. Restrictions and requirements relating to holding tanks

- (1) The holder of a fishing licence (rock lobster) must not place rock lobster in a holding tank unless the licence is endorsed for the use of a holding tank.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) that is endorsed for the use of a holding tank must not place, in a holding tank –
- (a) rock lobster taken by another person; or
 - (b) rock lobster purchased or obtained from a fish processor or fish handler.

Penalty: Grade 3 penalty.

- (3) The holder of a fishing licence (rock lobster) must not place rock lobster in a holding tank unless the licensee –

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- (a) makes an unloading report at least 2 hours before the rock lobster are unloaded; and
- (b) completes Part A of a commercial rock lobster quota docket before the rock lobster are removed from the immediate proximity of the site of unloading; and
- (c) sends the pink sheet of that commercial rock lobster quota docket to the Secretary within 48 hours after completing Part A of that docket.

Penalty: Grade 3 penalty.

- (4) The holder of a fishing licence (rock lobster) that is endorsed for the use of a holding tank must keep records relating to the following matters:
 - (a) the time and date of each placement of rock lobster in each holding tank;
 - (b) for each placement or removal of rock lobster in or from each holding tank, the number of rock lobster;
 - (c) the daily stock, by number, of rock lobster held in each holding tank.

Penalty: Grade 3 penalty.

PART 6 – REPORTING AND TRACKING

Division 1 – Reports

86. Reporting service

- (1) The Secretary may approve –
 - (a) a reporting service to receive reports under these rules; and
 - (b) the means by which such reports are to be made; and
 - (c) the information to be provided in such reports.
- (2) As soon as practicable after it receives a report under these rules, the reporting service is to issue the maker of the report with a report receipt number.

86A. Pre-fishing reports

The holder of a fishing licence (rock lobster) must, unless authorised to do otherwise by the Secretary, make a report to the reporting service before commencing a fishing trip to take rock lobster.

Penalty: Grade 2 penalty.

86B.

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87. Unloading reports

- (1) The holder of a fishing licence (rock lobster) must make an unloading report before unloading rock lobster.

Penalty: Grade 2 penalty.

- (2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of the unloading of any rock lobster if –
- (a) the rock lobster are placed in a fish cauf;
or
 - (b) the rock lobster are sold or transferred to a person other than a fish processor or fish handler and –
 - (i) the sale or transfer occurs within the immediate proximity of the site of unloading; and
 - (ii) no more than 20 rock lobster are sold or transferred; or
 - (c) the rock lobster need to be unloaded urgently to avoid the possibility that they might die on account of a significant change in water quality brought about by unforeseen circumstances and the licensee makes an emergency unloading report within 30 minutes after the time of unloading; or

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- (d) the rock lobster need to be unloaded urgently to ensure the safety of the fishing vessel and the licensee makes an emergency unloading report within 30 minutes after the time of unloading.
- (3) Also, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of the unloading of 5 or fewer rock lobster for the licensee's personal use in accordance with rule 74.
- (4) The holder of a fishing licence (rock lobster) who makes an unloading report under subrule (1) –
- (a) must not unload the rock lobster before the estimated time of unloading given in that report; and
 - (b) must commence unloading the rock lobster within 2 hours after the estimated time of unloading given in that report.

Penalty: Grade 2 penalty.

88. Alternative reporting arrangements

Despite any other provision of these rules, the holder of a licence is not guilty of an offence of failing to make a report to the reporting service under and in accordance with these rules about any matter if –

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

89. Making reports

Except with the written approval of the Secretary, a person must not make a report to the reporting service more than 24 hours before the activity to which the report relates is carried out.

Penalty: Grade 2 penalty.

90. Cancellation reports

- (1) This section applies if a person makes a report to the reporting service but does not carry out the activity to which the report relates.
- (2) The person must make a cancellation report within 2 hours after the time when, according to the report referred to in subrule (1), the activity was supposed to have been carried out.

Penalty: Grade 2 penalty.

91. False, misleading or incomplete information

A person must not –

- (a) omit any relevant information from a report required to be made to the reporting service under these rules; or

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- (b) give any false or misleading information in a report required to be made to the reporting service under these rules.

Penalty: Grade 3 penalty.

92. 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

93. Measurement of weights

The holder of a fishing licence (rock lobster), fish processing licence or handling licence must maintain and use accurate weighing instruments to determine the weight information written on any dockets completed under these rules.

Penalty: Grade 3 penalty.

94. Conflicts of interest

- (1) A natural person who unloads rock lobster must not complete Part B of a commercial rock lobster quota docket as the holder of a fish processing licence unless that natural person has the written approval of the Secretary to do so.

Penalty: Grade 3 penalty.

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- (2) A natural person who receives rock lobster must not complete Part A of a commercial rock lobster quota docket as the holder of a fishing licence (rock lobster) unless that natural person has the written approval of the Secretary to do so.

Penalty: Grade 3 penalty.

- (3) A natural person who was present when rock lobster were taken must not complete Part B of a commercial rock lobster quota docket, in respect of that rock lobster, unless that natural person has the written approval of the Secretary to do so.

Penalty: Grade 3 penalty.

94A. Unauthorised possession of unused dockets

- (1) A person must not have possession of an unused docket unless that docket was issued to the person and the person holds a fishing licence (rock lobster), fish processing licence or handling licence.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply to a person who is acting as the agent of another person (the *principal*) if the unused docket was issued to the principal and the principal holds a fishing licence (rock lobster), fish processing licence or handling licence.
- (3) In this rule –

unused docket means any of the following:

- (a) commercial rock lobster quota docket;
- (b) commercial rock lobster and giant crab direct sales quota docket;
- (c) commercial rock lobster and giant crab sales receipt;
- (d) rock lobster catch record;
- (e) fish dispatch book;
- (f) fish receipt book.

Division 3 – Records

95. Records of general information

- (1) The holder of a fishing licence (rock lobster) must make and retain records within Tasmania that enable the following information to be determined in respect of operations conducted under the licence and in respect of business activities arising in connection with those operations:
 - (a) the date of each sale or consignment of rock lobster made by or on behalf of that licensee;
 - (b) the exact weight of rock lobster sold or consigned;

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- (c) the form of rock lobster sold or consigned;
- (d) the price or consideration received for rock lobster;
- (e) for sales or consignments of 21 or more rock lobster at any one time, the name and address of the purchaser or consignee of the rock lobster.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of the retention of a record outside Tasmania if the licensee –
 - (a) resides outside Tasmania; and
 - (b) retains the record at the address specified in the licence; and
 - (c) produces the record to a fisheries officer within 7 days after receiving a written request from that fisheries officer for its production.

96. Records of rock lobster catch

- (1) The holder of a fishing licence (rock lobster) must complete a rock lobster catch record in accordance with the instructions in the rock lobster catch record book –
 - (a) on each day during which fishing occurs; and

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(b) before that licensee –

- (i) first disembarks from a fishing vessel after a fishing trip; or
- (ii) leaves State waters with rock lobster on a fishing vessel.

Penalty: Grade 2 penalty.

- (2) The holder of a fishing licence (rock lobster) must ensure that the licensee's rock lobster catch record is, during a fishing trip for rock lobster, kept on the fishing vessel used for that fishing trip.

Penalty: Grade 2 penalty.

PART 7 – MISCELLANEOUS

97. Tagging requirements

- (1) A person must not be in possession of rock lobster at a place where the business of selling fish is carried on unless –
- (a) a rock lobster tag is securely fastened to a horn of each rock lobster; or
 - (b) each rock lobster is tagged in another manner approved by the Secretary.

Penalty: Grade 3 penalty.

- (2) A person must not be in possession of, or sell or purchase, rock lobster for consumption in Tasmania unless –
- (a) a rock lobster tag is securely fastened to a horn of each rock lobster; or
 - (b) each rock lobster is tagged in another manner approved by the Secretary.

Penalty: Grade 3 penalty.

- (3) However, subrule (2) does not apply to the holder of a fishing licence (rock lobster) in respect of any rock lobster if –
- (a) the licence is endorsed for the use of a holding tank; and
 - (b) the rock lobster are being held in a holding tank in order to be sold directly

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-
- to persons other than fish processors or fish handlers; and
- (c) each rock lobster that is so sold is tagged in accordance with that subrule as soon as it is removed from the holding tank.
- (4) Also, subrules (1) and (2) do not apply to a person in respect of any rock lobster if –
- (a) the person is the holder of a fishing licence (rock lobster) and –
- (i) is in possession of the rock lobster in State waters; or
- (ii) is in possession of the rock lobster in a holding tank; or
- (iii) the rock lobster are 5 or fewer in number and have been retained in accordance with rule 74; or
- (b) the person is a fish processor and is processing, transporting, holding or storing the rock lobster; or
- (c) the person is a fish handler and is transporting, holding or storing the rock lobster; or
- (d) the person is in possession of the rock lobster as a non-commercial fisher and the rock lobster are marked in accordance with rule 40.
- (5) The holder of a fishing licence (rock lobster) must not sell or transfer rock lobster to a person

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other than a fish processor or fish handler unless, before the rock lobster are removed from the immediate proximity of the site of unloading –

- (a) a rock lobster tag is securely fastened to a horn of each rock lobster; or
- (b) each rock lobster is tagged in another manner approved by the Secretary.

Penalty: Grade 3 penalty.

- (6) However, subrule (5) does not apply to the holder of a fishing licence (rock lobster) in respect of a rock lobster if it is being –
 - (a) stored for the purposes of export; or
 - (b) transported for the purposes of export.

- (7) If the holder of a fish processing licence or handling licence (in this subrule referred to as “**the vendor**”) sells rock lobster to any person in Tasmania who is not a fish processor or fish handler, the vendor must ensure that each rock lobster so sold is tagged in accordance with subrule (5) before the rock lobster leaves the vendor’s possession.

Penalty: Grade 3 penalty.

- (8) Except with the written authorisation of the Secretary, a person (in this subrule referred to as “**the transferor**”) must not transfer to another person a rock lobster tag that the Secretary has issued to the transferor.

Penalty: Grade 2 penalty.

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- (9) A person must not use a rock lobster tag more than once.

Penalty: Grade 3 penalty.

- (10) A person who prepares rock lobster to be sold as a meal must deface each rock lobster tag removed from the rock lobster by cutting the tag diagonally across its numbered face immediately before the meal is prepared.

Penalty: Grade 3 penalty.

- (11) A person must not be in possession of a closed rock lobster tag that –
- (a) is not fastened to a rock lobster; or
 - (b) has not been defaced in accordance with subrule (10).

Penalty: Grade 3 penalty.

- (12) A person is not guilty of an offence in respect of a requirement under this rule if the person –
- (a) is exempt from complying with that requirement pursuant to rule 98; and
 - (b) is complying with the conditions, if any, of the exemption.

- (13) In this rule –

rock lobster tag means a tag issued by the Secretary that is –

- (a) in an approved form; and

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- (b) marked with a distinctive number allocated by the Secretary.

98. Tagging exemptions

- (1) The Secretary may exempt a person or group of persons from the need to comply with a requirement under rule 97 if the Secretary reasonably considers that –
 - (a) compliance with the requirement is unnecessary, impracticable or unreasonable; and
 - (b) granting the exemption would not be detrimental to the rock lobster fishery.
- (2) The exemption (“**tagging exemption**”) may be granted –
 - (a) on application; or
 - (b) if the Secretary considers it necessary or desirable, on the Secretary’s own initiative.
- (3) An application is to be –
 - (a) in an approved form; and
 - (b) supported by such information or evidence as the Secretary may require, either at the time of lodgment or subsequently.
- (4) A tagging exemption may be granted –

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- (a) by such means as the Secretary thinks fit;
and
 - (b) unconditionally or on such conditions as to duration, supervision, circumstance or otherwise as the Secretary thinks fit.
- (5) A person who has the benefit of a tagging exemption must not contravene a condition of the tagging exemption.
- Penalty: Grade 2 penalty.
- (6) The Secretary, by notice, may vary the conditions of, or revoke, a tagging exemption at any time.
- (7) The Secretary is to ensure that a notice refusing an application for a tagging exemption, or a notice varying or revoking a tagging exemption, states the reasons for the action being taken.
- (8) The Secretary may give such public and private notice of a tagging exemption as he or she thinks fit.

99. Vessel monitoring systems

- (1) The Secretary, by notice in writing served on the holder of a fishing licence (rock lobster), may direct the licensee to fit a vessel monitoring system to a specified fishing vessel.
- (2) Part 3 of the *Fisheries Rules 2009*, other than rule 32 of those rules, applies to the holder of a fishing licence (rock lobster) as if –

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- (a) references in that Part to a supervisor of a fishing licence (vessel) were references to a supervisor of a fishing licence (rock lobster); and
- (b) references in that Part to a holder of a fishing licence (vessel) were references to a holder of a fishing licence (rock lobster); and
- (c) references in that Part to a notice served were references to a notice in writing sent.

100. Public notices

A public notice under any of these rules may be –

- (a) combined with another such notice; and
- (b) revoked by another such notice.

101. Presumption as to possession of rock lobster held by children

- (1) 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 his or her capacity, be in possession of rock lobster; and
 - (b) any rock lobster that a child may be holding, or have about himself or herself,

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at any place are in the possession of the adult supervisor, if any, of that child at that place.

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

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

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

102. Transitional provision

A public notice under the *Fisheries (Rock Lobster) Rules 2006* that had force and effect for the purposes of the rock lobster fishery immediately before the day on which these rules take effect is taken to be a public notice under and for the purposes of these rules, having force and effect according to its terms until whichever of the following first occurs:

- (a) the public notice is rescinded;

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- (b) the public notice is spent in its application to all fisheries;
- (c) the public notice is spent in its application to the rock lobster fishery;
- (d) the public notice is amended or varied in such a way that it ceases to have any application to the rock lobster fishery.

103. Infringement notice offences and penalties

For section 234 of the Act –

- (a) an offence under a rule specified in column 2 of Schedule 3 is prescribed as an offence in respect of which an infringement notice may be served; and
- (b) the penalty specified in column 3 of that Schedule in respect of the offence is the applicable penalty in relation to the issuing or serving of an infringement notice for the offence.

104. Legislation rescinded

The legislation specified in Schedule 4 is rescinded.

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SCHEDULE 1 – PORTS OF LANDING

Rule 3

1. The following are ports of landing for north-western Tasmania:
 - (a) Bluff Hill Point;
 - (b) within 200 metres of Couta Rocks;
 - (c) the public wharf at Currie Harbour;
 - (d) Devonport;
 - (e) within Granville Harbour and Sting Ray Bay;
 - (f) within Grassy Harbour;
 - (g) within Nelson Bay;
 - (h) the public unloading wharf at Smithton;
 - (i) Fisherman's Wharf at Stanley;
 - (ia) the wharf known as the Craig Moyston wharf at Stanley;
 - (j) the main public wharf, Fisherman's Wharf and Strahan Fisheries Wharf at Strahan;
 - (k) within 200 metres of Temma Harbour;
 - (l) Fisherman's Wharf at Wynyard.

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2. The following are ports of landing for north-eastern Tasmania:
 - (a) Waubs Bay ramp and the public wharf at Bicheno;
 - (b) the boat ramp at Binalong Bay;
 - (c) the public wharf at Bridport;
 - (d) the public wharf at George Town;
 - (e) Killiecrankie;
 - (f) the public wharf at Lady Barron;
 - (g) North East River;
 - (h) Musselroe River;
 - (i) the public wharf, Pike's Jetty and Finger Pier at St Helens;
 - (j) the public wharf at Whitemark;
 - (k) Palana;
 - (l) the public wharf at Beauty Point.

3. The following are ports of landing for southern Tasmania:
 - (a) the public wharf at Coles Bay;
 - (b) the public wharf at Dover;
 - (ba) the wharf known as the Craig Moyston wharf at Dover;

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- (c) Blackman Bay Wharf at Dunalley;
- (d) the public wharf at Eaglehawk Neck;
- (e) Gordon Jetty;
- (f) King Pier, Macquarie Wharf and Victoria Dock at Hobart;
- (g) the public wharf at Kettering;
- (h) North West Bay Marina and the public wharf at Margate;
- (i) the public wharf and the Storm Bay Seafoods wharf at Nubeena;
- (j) the public wharf at Port Arthur;
- (k) the public wharf at Recherche Bay;
- (l) the public wharf at Southport;
- (m) the town wharf, the wharf opposite the town wharf and the deepwater wharf at Triabunna;
- (n) the public wharf at Woodbridge;
- (o) the public jetty at Little Swanport.

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SCHEDULE 2 –

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**SCHEDULE 3 – INFRINGEMENT NOTICE OFFENCES
AND PENALTIES**

Rule 103

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74.	61(3)	5
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105.	76(1)	10
106.	76(3)	5
107.	77(1)	5
107M.	77A(1)	5
107N.	77B(1)	5
108.	78(1)	5
109.	78(2)	3
110.	78(4)	6
111.	79(1)	8
112.	80(1)	2
113.	81(1)	2
114.	81(2)	2
115.	81(4)	2

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Column 1	Column 2	Column 3
116.	81(5)	2
117.	82(1)	5
118.	82(2)	3
119.	82(3)	8
120.	82(4)	8
121.	83	2
122.	84(1)	5
123.	84(2)	5
124.	84(3)	4
125.	84(4)	4
126.	84(5)	2
127.	84(6)	4
128.	84(7)	4
129.	84(8)	4
130.	84(9)	4
131.	85(1)	4
132.	85(2)	4
133.	85(3)	4
134.	85(4)	4
135.	86A	3
137.	87(1)	3

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Column 1	Column 2	Column 3
138.	87(4)	3
139.	89	3
140.	90(2)	3
141.	91	3
142.	92	2
143.	93	5
144.	94(1)	2
145.	94(2)	2
146.	94(3)	2
146M.	94A(1)	5
146N.	94A(2)	5
147.	95(1)	3
148.	96(1)	3
149.	96(2)	3
150.	97(1)	3
151.	97(2)	3
152.	97(5)	3
153.	97(7)	3
154.	97(8)	3
155.	97(9)	5
156.	97(10)	1

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Column 1	Column 2	Column 3
157.	97(11)	1
158.	98(5)	4

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SCHEDULE 4 – LEGISLATION RESCINDED

Rule 104

Fisheries (Rock Lobster) Rules 2006 (No. 8 of 2006)

Fisheries (Rock Lobster) Amendment Rules 2010 (No. 2 of
2010)

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

Notified in the *Gazette* on 21 September 2011.

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

NOTES

The foregoing text of the *Fisheries (Rock Lobster) Rules 2011* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 November 2019 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
¹ <i>Fisheries (Rock Lobster) Rules 2011</i>	S.R. 2011, No. 92	1.11.2011
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	31.10.2012 Amended by Order published in the Gazette 31/10/2012, p. 2076
<i>Fisheries (Rock Lobster) Amendment Rules 2014</i>	S.R. 2014, No. 3	29.1.2014
<i>Legislation Publication Act 1996</i>	No. 17 of 1996	1.10.2014 Amended by Order in the Gazette, 1 October 2014 p. 1518
<i>Fisheries (Rock Lobster) Amendment Rules 2015</i>	S.R. 2015, No. 69	21.10.2015
<i>Fisheries (Rock Lobster) Amendment Rules 2017</i>	S.R. 2017, No. 8	1.3.2017
<i>Fisheries (Rock Lobster) Amendment Rules 2019</i>	S.R. 2019, No. 62	1.11.2019

¹Expire 31 October 2021 - r. 6

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TABLE OF AMENDMENTS

Provision affected	How affected
Rule 3	Amended by S.R. 2014, No. 3, S.R. 2015, No. 69, S.R. 2017, No. 8 and S.R. 2019, No. 62
Rule 10A	Inserted by S.R. 2014, No. 3 Amended by S.R. 2017, No. 8 and S.R. 2019, No. 62
Rule 11	Amended by S.R. 2014, No. 3 and S.R. 2019, No. 62
Rule 13	Amended by S.R. 2014, No. 3
Rule 14	Amended by S.R. 2014, No. 3
Rule 17A	Inserted by S.R. 2019, No. 62
Rule 26	Amended by S.R. 2019, No. 62
Rule 32	Amended by S.R. 2015, No. 69
Rule 33	Amended by S.R. 2015, No. 69
Rule 34	Amended by S.R. 2015, No. 69 and S.R. 2019, No. 62
Rule 35	Amended by No. 17 of 1996
Rule 36	Amended by No. 17 of 1996
Rule 36A	Inserted by No. 17 of 1996
Rule 43	Amended by S.R. 2014, No. 3
Rule 44	Amended by S.R. 2014, No. 3
Rule 45	Amended by S.R. 2014, No. 3
Rule 48	Amended by S.R. 2017, No. 8
Rule 49	Amended by S.R. 2017, No. 8
Rule 54	Amended by S.R. 2017, No. 8
Rule 56	Amended by S.R. 2017, No. 8
Rule 57	Substituted by S.R. 2017, No. 8
Rule 57A	Inserted by S.R. 2014, No. 3 Amended by S.R. 2017, No. 8
Rule 57B	Inserted by S.R. 2017, No. 8
Rule 58	Substituted by S.R. 2014, No. 3 Amended by S.R. 2019, No. 62
Rule 59A	Inserted by S.R. 2017, No. 8 Amended by S.R. 2019, No. 62
Rule 65	Rescinded by S.R. 2014, No. 3
Rule 67	Substituted by S.R. 2017, No. 8
Rule 70	Amended by S.R. 2014, No. 3
Rule 71	Amended by S.R. 2014, No. 3
Rule 72	Amended by S.R. 2017, No. 8
Rule 72A	Inserted by S.R. 2017, No. 8
Rule 74	Amended by S.R. 2017, No. 8
Rule 75	Amended by S.R. 2014, No. 3
Rule 75A	Inserted by S.R. 2017, No. 8 Substituted by S.R. 2019, No. 62
Rule 77A	Inserted by S.R. 2014, No. 3
Rule 77B	Inserted by S.R. 2017, No. 8
Rule 78	Amended by S.R. 2017, No. 8
Rule 86A	Amended by No. 17 of 1996

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Provision affected	How affected
Rule 86B	Inserted by S.R. 2014, No. 3 Substituted by S.R. 2017, No. 8 Amended by No. 17 of 1996 Inserted by S.R. 2014, No. 3 Rescinded by S.R. 2017, No. 8
Rule 87	Amended by No. 17 of 1996 and S.R. 2017, No. 8
Rule 89	Amended by S.R. 2017, No. 8
Rule 90	Amended by S.R. 2017, No. 8
Rule 94	Amended by S.R. 2014, No. 3
Rule 94A	Inserted by S.R. 2017, No. 8
Schedule 1	Amended by S.R. 2014, No. 3 and S.R. 2017, No. 8
Schedule 2	Rescinded by S.R. 2017, No. 8
Part 1 of Schedule 2	Rescinded by S.R. 2017, No. 8
Part 2 of Schedule 2	Rescinded by S.R. 2017, No. 8
Schedule 2	Inserted by S.R. 2017, No. 8 Rescinded by S.R. 2019, No. 62
Schedule 3	Amended by No. 17 of 1996 Substituted by S.R. 2014, No. 3 Amended by S.R. 2017, No. 8
