

TASMANIA

FISHERIES (ABALONE) RULES 2017
STATUTORY RULES 2017, No. 94

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FISHERIES (ABALONE) RULES 2017

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

Dated 23 November 2017.

JEREMY ROCKLIFF
Minister for Primary Industries and Water

PART 1 – PRELIMINARY

1. Short title

These rules may be cited as the *Fisheries (Abalone) Rules 2017*.

2. Commencement

These rules take effect on 1 January 2018.

3. Interpretation

In these rules –

abalone means fish of the genus *Haliotis*;

abalone container includes a fishing vessel carrying abalone;

abalone meat means any part of the flesh of an abalone that has been removed from its shell other than –

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- (a) in the course of cooking or being consumed; or
- (b) for the purposes of being processed at processing premises;

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

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 operated solely from, the fishing vessel; and
- (c) not operated further than 2 nautical miles from the fishing vessel;

Bass Strait area means the area of State waters adjacent to the north coast of Tasmania and the Furneaux Group of islands in Bass Strait bounded in the west by an imaginary line running from the northernmost point of Woolnorth Point to the point of latitude 40° 37' 14.40" South, longitude 144° 41' 37.87" East, then running due north to the outer limit of State waters and bounded in the east by an imaginary line beginning where the line of longitude 147° 27' 00" East meets the high-water mark of the north coast of the mainland of Tasmania in Anderson

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Bay, then running due north until its junction with the line of latitude 40° 39' South, then due east along that line of latitude to the outer limit of State waters;

blacklip abalone means fish of the species *Haliotis rubra*;

broodstock means abalone taken from State waters which are, or are intended to be, used as a source of culture stock;

changing part of fishery report means a report relating to changing the part of the fishery in which abalone are to be taken that is part of the records required to be kept under the Act;

closed season means a season or period during which all or part of the abalone fishery is closed to fishing;

commercial abalone dive docket means a docket relating to abalone quota that is part of records required to be kept under the Act;

diving team means a diving team formed in accordance with rule 38;

diving team docket means a docket in an approved form relating to the taking of abalone by a diving team;

excess abalone, in relation to the holder of a fishing licence (abalone dive), means abalone taken by the licence holder in

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excess of his or her quota limit for the licence;

fish dispatch docket means a docket relating to the movement of abalone, rock lobster or giant crab that is part of records required to be kept under the Act;

fish merchant means –

- (a) the holder of a fish processing licence that specifies abalone; or
- (b) a person who carries on the business of selling fish;

fish receipt docket means a docket relating to the receipt of abalone, rock lobster or giant crab that is part of records required to be kept under the Act;

fish trap means a fish trap as defined in the *Fisheries (Scalefish) Rules 2015*;

fishing trip means a trip on a vessel, undertaken for fishing, that –

- (a) commences on departure of the vessel from land, a pier, jetty or artificial extension of land; and
- (b) ends on the return of the vessel to land, a pier, jetty or artificial extension of land;

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

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giant crab trap means a trap within the meaning of the *Fisheries (Giant Crab) Rules 2013*;

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*;

greenlip abalone means fish of the species *Haliotis laevis*;

landed, in relation to abalone, means when any abalone or any abalone container –

- (a) is taken ashore; or
- (b) makes contact with a jetty or other artificial extension of land after the abalone has been taken;

landing area means an area specified in rule 60;

leaving area report means a report relating to the leaving of an area whilst fishing for abalone that is part of records required to be kept under the Act;

leaving port report means a report relating to the leaving of a port before fishing for

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

marine farmer means the holder of a marine farming licence whose licence is endorsed for abalone;

mother boat means a fishing vessel that –

- (a) is used to transport holders of a fishing licence (abalone dive) on fishing trips for abalone; and
- (b) is used by holders of a fishing licence (abalone dive) –
 - (i) to act as a diving platform to take abalone for commercial purposes; or
 - (ii) to operate a fishing vessel or auxiliary vessel that acts as a diving platform to take abalone for commercial purposes; or
 - (iii) to undertake a fishing trip which ends on a day other than the day on which it commenced;

National Law has the same meaning as in the *Marine and Safety Authority Act 1997*;

northern area means the area of State waters adjacent to the north, north-west and north-east coasts of the mainland of

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Tasmania and King Island, and those State waters north of a line bounded in the east by an imaginary line from the northern side of the mouth of the Great Musselroe River at Musselroe Bay running due west for 100 metres, then following the shoreline 100 metres from shore to the northernmost tip of Musselroe Point, then running due north until intersection with the line of latitude 40° 48' 00" South, and running due east to the outer limit of State waters, and bounded in the west by an imaginary straight line running due west from the mouth of the Arthur River to the outer limit of State waters;

northern blacklip area means the area of State waters adjacent to the north, north-west and north-east coasts of the mainland of Tasmania and King Island, and those State waters generally north of a line bounded in the east by an imaginary line from the northern side of the mouth of the Great Musselroe River at Musselroe Bay running due west for 100 metres, then following the shoreline 100 metres from shore to the northernmost tip of Musselroe Point, then running due north until its junction with the line of latitude 40° 48' 00" South, and running due east to the outer limit of State waters, and bounded in the west by an imaginary line from the northernmost point of Woolnorth Point to the point of

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latitude 40° 37' 14.40" South, longitude 144° 41' 37.87" East, then running due north to the line of latitude 40° 16' 58.41" South, and running due west to the limit of State waters;

NSCV means the National Standard for Commercial Vessels published by the National Marine Safety Committee, as amended from time to time;

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

part of the fishery means any part of the fishery determined under section 94(2) of the Act to be a part of the fishery;

post fishing report means a report provided after fishing for abalone that is part of records required to be kept under the Act;

prior fishing report means a report provided before fishing for abalone that is part of records required to be kept under the Act;

prior landing report means a report provided before abalone is landed that is part of records required to be kept under the Act;

processing premises means –

- (a) any place, vessel or vehicle in respect of which a fish processing licence is in force; or

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- (b) any place specified in a fish processing licence as a place where fish may be held or stored;

quota limit means the amount of abalone that may be taken in accordance with a fishing licence (abalone dive) in a part of the fishery at a particular time;

receipt report means a report made to a reporting service by approved means containing approved information;

reporting service means a service approved under rule 39;

rock lobster has the same meaning as in the *Fisheries (Rock Lobster) Rules 2011*;

rock lobster pot has the same meaning as in the *Fisheries (Rock Lobster) Rules 2011*;

rock lobster ring has the same meaning as in the *Fisheries (Rock Lobster) Rules 2011*;

securely fastened means on board and fastened to a mother boat;

shell length, in relation to an abalone, means the diameter of the abalone shell at its widest, whether the shell is broken or chipped or not;

site of unloading means the first point where any abalone or container of abalone is landed or unloaded;

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

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

transfer docket means a docket in an approved form relating to the transfer to a person of excess abalone in accordance with rule 56(8);

undersize, in relation to abalone, means an abalone that is less than the minimum size specified for that abalone in Part 2 of the *Fisheries (General and Fees) Regulations 2016*;

USL means the Uniform Shipping Laws Code adopted by the Australian Transport Council and notified in the Commonwealth of Australia Gazette;

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.

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4. Application of rules

These rules apply to the abalone fishery.

5. Duration of rules

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

6. Consultation arrangements

The Minister must consult with the appropriate advisory committee established under section 27 of the Act in relation to the abalone fishery in respect of any changes relating to –

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

PART 2 – GENERAL MANAGEMENT OF FISHERY

7. Classes of fishing licences

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

- (a) class abalone –
 - (i) fishing licence (abalone dive); or
 - (ii) fishing licence (abalone quota);
- (b) class personal, fishing licence (personal);
- (c) class recreational, fishing licence (recreational abalone);
- (d) class vessel, fishing licence (vessel).

8. Total allowable catch

The period during which the total allowable catch for the abalone fishery may be taken is the period from 1 January to 31 December in each year.

9. Closed and open season for abalone

- (1) The Minister, by notice published on a website of the Department, may determine –
 - (a) the dates of the closed season for all or part of the abalone fishery; and

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- (b) the dates of the open season for all or part of the abalone fishery; and
 - (c) that any part of the abalone fishery is closed to, or in respect of, such specific activities for such periods as are specified in the notice.
 - (2) A notice under subsection (1) must –
 - (a) be published on a website of the Department that is accessible to the public; and
 - (b) remain on that website until the notice ceases to have effect.
 - (3) A person must not take or be in possession of abalone in State waters that are closed to the abalone fishery.

Penalty: Grade 3 penalty.

- (4) A person must comply with a determination in force under subrule (1).

Penalty: Grade 3 penalty.

PART 3 – LICENCES

10. Authority of abalone licences

- (1) A fishing licence (abalone quota) only authorises the holder to have a share of the total allowable catch of abalone which is equal to the number of abalone quota units specified in the licence.
- (2) Subject to rules 38(2), 56, 57 and 58, a fishing licence (abalone dive) only authorises the holder, in State waters, to dive, take and have possession of abalone –
 - (a) under the authority of that licence; and
 - (b) of a quantity specified in the licence.
- (3) A fishing licence (recreational abalone) only authorises the holder of the licence to take abalone for non-commercial purposes in State waters.

11. Number of fishing licences (abalone dive)

The Minister is to ensure that no more than 121 fishing licences (abalone dive) are in force at any one time.

12. Granting of fishing licences (abalone dive)

A fishing licence (abalone dive) may only be granted to a person if the person lodging the application for the licence –

- (a) held a fishing licence (abalone dive) on the preceding 31 December; and
- (b) has not transferred the licence referred to in paragraph (a); and
- (c) lodges the application in accordance with section 77 of the Act within 12 months after the expiry of the licence referred to in paragraph (a).

13. Abalone quota certificate

The Secretary may issue a certificate certifying that a holder of an abalone quota unit may authorise a holder of a fishing licence (abalone dive) to take abalone of a weight specified in the certificate from the part of the fishery specified in the certificate.

14. Weight of total allowable catch

A holder of an abalone quota unit may only authorise a holder of a fishing licence (abalone dive) to take the weight of abalone specified in the certificate issued under rule 13 from the part of the fishery specified in that certificate.

15. Restrictions on fishing licence (abalone dive)

- (1) In this rule –

mutilated, in relation to abalone, means cut, punctured or bruised.

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- (2) The holder of a fishing licence (abalone dive) must not have possession of an abalone that has been removed from its shell unless the holder is not on a fishing vessel and the abalone –
- (a) has been taken under a fishing licence (recreational abalone); or
 - (b) is being prepared for cooking or is being cooked or consumed; or
 - (c) is being or has been processed in processing premises.

Penalty: Grade 3 penalty.

- (3) Subject to rules 38(2), 56, 57 and 58, the holder of a fishing licence (abalone dive) must not –
- (a) take an amount of abalone which exceeds the total amount specified in the licence at the time the abalone are taken; or
 - (b) take an amount of abalone from a part of the fishery that exceeds the total amount specified in the licence for that part of the fishery at the time the abalone are taken.

Penalty: Grade 3 penalty.

- (4) The holder of a fishing licence (abalone dive) must ensure that any abalone taken under that licence are landed in Tasmania before being transported outside State waters.

Penalty: Grade 3 penalty.

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- (5) The holder of a fishing licence (abalone dive) must ensure that any abalone taken under that licence –
- (a) are delivered with the relevant commercial abalone dive docket to either or both of the following:
 - (i) the holder of a fish processing licence that specifies abalone;
 - (ii) a marine farmer for use as broodstock; and
 - (b) on delivery under paragraph (a), are in the shell and not mutilated.

Penalty: Grade 3 penalty.

- (6) The holder of a fishing licence (abalone dive) must not take or be in possession of abalone taken under a fishing licence (recreational abalone) while on a fishing vessel that is being used to take, transport or store abalone for commercial purposes.

Penalty: Grade 2 penalty.

- (7) The holder of a fishing licence (abalone dive) must –
- (a) carry a measuring device while diving in State waters for abalone; and
 - (b) measure an abalone with the measuring device as soon as it is detached from the rock or other place to which it was attached; and

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- (c) immediately replace on the rock or other place to which the abalone had been attached any abalone that is undersize; and
- (d) not land abalone without being in possession of a commercial abalone dive docket at the landing area.

Penalty: Grade 2 penalty.

16. Restrictions on fishing licence (recreational abalone)

- (1) In this rule –

offal means the offal or viscera of abalone, excluding the shell and meat.

- (2) The holder of a fishing licence (recreational abalone) must –
- (a) carry a measuring device while taking abalone in State waters; and
 - (b) measure an abalone with the measuring device as soon as it is detached from the rock or other place to which it was attached; and
 - (c) immediately replace on the rock or other place to which the abalone had been attached any abalone that is undersize; and
 - (d) subject to subrule (3), bring ashore all abalone above the high-water mark

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before detaching any abalone meat or offal from the shell.

Penalty: Grade 3 penalty.

- (3) Subrule (2)(d) does not apply to the holder of a fishing licence (recreational abalone) if –
- (a) the holder only detaches one abalone from its shell per day; and
 - (b) the holder is on a vessel –
 - (i) that is registered to carry passengers under a certificate of survey issued under the National Law of Class 1 or Class 2; and
 - (ii) that is undertaking a charter; and
 - (iii) the master of which has been authorised by the Secretary to have detached abalone aboard; and
 - (c) the shell is retained on board the vessel until it returns to port; and
 - (d) the detached abalone is part of the quantity that the licence holder is permitted to take and possess under rule 18.

PART 4 – GENERAL OFFENCES

Division 1 – Taking and possessing abalone

17. Taking abalone from State waters

- (1) A person must not take any abalone from State waters unless that person is –
- (a) the holder of –
 - (i) a fishing licence (abalone dive);
or
 - (ii) a fishing licence (recreational abalone); or
 - (b) an Aborigine undertaking an Aboriginal activity.

Penalty: Grade 3 penalty.

- (2) A person must not take abalone for non-commercial purposes from State waters unless the person is –
- (a) the holder of a fishing licence (recreational abalone); or
 - (b) an Aborigine undertaking an Aboriginal activity.

Penalty: Grade 3 penalty.

- (3) A person must not take any abalone for commercial purposes from State waters unless the person is the holder of a fishing licence (abalone dive) and a fishing licence (personal).

Penalty: Grade 3 penalty.

18. Quantity of abalone

- (1) A person must not take more than 10 abalone from State waters in any one day unless the person is the holder of a fishing licence (abalone dive).

Penalty: Grade 3 penalty.

- (2) A person must not have possession of more than 5 abalone at any one time unless the person –
- (a) is the holder of a fishing licence (recreational abalone); or
 - (b) is the holder of a fishing licence (abalone dive); or
 - (c) is an Aborigine undertaking an Aboriginal activity; or
 - (d) has a receipt relating to the purchase of the abalone from a fish merchant with the abalone to which the receipt relates.

Penalty: Grade 3 penalty.

- (3) A person must not have possession of more than 20 abalone at any one time unless the person –
- (a) has the yellow sheet of the completed commercial abalone dive docket for that abalone; or

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- (b) has a receipt relating to the purchase of the abalone from a fish merchant with the abalone to which the receipt relates; or
- (c) is the holder of a fishing licence (abalone dive) who has taken the abalone under that licence and has not left the landing area.

Penalty: Grade 3 penalty.

- (4) Subrules (2) and (3) do not apply if all the abalone –
 - (a) are on, or have been taken from, a marine farm by or with the authority of the holder of the marine farming licence or a permit relating to marine farming and have been grown under that licence or permit; and
 - (b) have not been exported.

19. Possessing abalone on vessel

- (1) A person must not, on any vessel in State waters, have possession of an abalone unless the person –
 - (a) is the holder of a fishing licence (recreational abalone); or
 - (b) is the holder of a fishing licence (abalone dive); or
 - (c) is an Aborigine undertaking an Aboriginal activity; or

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- (d) has a receipt relating to the purchase of the abalone from a fish merchant with the abalone to which the receipt relates.

Penalty: Grade 3 penalty.

- (2) A person must not, on any vessel in State waters, have possession of an abalone that has been detached from its shell or processed in any form.

Penalty: Grade 3 penalty.

- (3) Subrule (2) does not apply to the holder of a fishing licence (recreational abalone) if –
 - (a) the holder only detaches one abalone from its shell per day; and
 - (b) the holder is on a vessel –
 - (i) that is registered to carry passengers under a certificate of survey issued under the National Law of Class 1 or Class 2; and
 - (ii) that is undertaking a charter; and
 - (iii) the master of which has been authorised by the Secretary to have detached abalone aboard; and
 - (c) the shell is retained on board the vessel until it returns to port; and
 - (d) the detached abalone is part of the quantity that the licence holder is

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permitted to take and possess under rule 18.

- (4) Subrules (1) and (2) do not apply if the person is on –
 - (a) a trading vessel; or
 - (b) a vessel classified as a Class 2 vessel under the NSCV or the USL.
- (5) A person must not have possession of, or use, abalone or part of abalone as bait in State waters.

Penalty: Grade 3 penalty.

20. Abalone meat

- (1) In this rule –
 - imported abalone* means abalone that was –
 - (a) imported; and
 - (b) not taken in State waters.
- (2) A person must not have possession of greenlip abalone meat that is less than 70 grams in weight unless –
 - (a) the person is the holder of a fish processing licence endorsed to process abalone; and
 - (b) the abalone is imported abalone; and
 - (c) the person is able to verify the source of the abalone meat.

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Penalty: Grade 3 penalty.

- (3) A person must not have possession of any abalone meat, other than greenlip abalone meat, that is less than 90 grams in weight unless –
- (a) the person is the holder of a fish processing licence endorsed to process abalone; or
 - (b) the person has bought or received the abalone from a fish merchant; or
 - (c) the abalone is blacklip abalone taken from the northern area.

Penalty: Grade 3 penalty.

- (4) The holder of a fish processing licence must not have possession of any abalone meat, other than greenlip abalone meat, less than 90 grams in weight unless the abalone was taken in the northern blacklip area or the Bass Strait area or –
- (a) the abalone is imported abalone; and
 - (b) the holder is able to verify the source of the abalone meat.

Penalty: Grade 3 penalty.

- (5) The holder of a fish processing licence who possesses abalone meat from imported abalone must store or hold the abalone meat in bins or containers that do not contain any abalone or abalone meat taken from State waters.

Penalty: Grade 2 penalty.

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- (6) This rule does not apply to marine farmers.

Division 2 – Taking and possessing abalone in certain areas

21. Taking abalone from single part of fishery

- (1) The holder of a fishing licence (abalone dive), on a fishing trip, must not take blacklip abalone in a part of the fishery other than that nominated under rules 40(6) and 41(1) for that trip.

Penalty: Grade 3 penalty.

- (2) On a fishing trip, the holder of a fishing licence (abalone dive) must not take blacklip abalone from more than one part of the fishery.

Penalty: Grade 3 penalty.

- (3) If the holder of a fishing licence (abalone dive) takes, or intends to take, on a fishing trip blacklip abalone from one part of the blacklip abalone fishery, he or she must not on that fishing trip, take abalone from, or dive or swim in, State waters that are not within that part of the blacklip abalone fishery.

Penalty: Grade 3 penalty.

22. Possessing abalone in certain areas

- (1) Subject to subrule (2), a person must not, in State waters north of the line of latitude 39° 33' South, be in possession of abalone unless –

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- (a) the abalone was taken under the authority of a commercial fishing licence; or
 - (b) the person is on –
 - (i) a trading vessel; or
 - (ii) a vessel classified as a Class 2 vessel under the NSCV or the USL; or
 - (c) the person is in State waters that are within 50 metres of an island.

Penalty: Grade 3 penalty

- (2) Subrule (1) does not apply if the person has the Secretary's written approval to be in possession of abalone in State waters north of the line of latitude 39° 30' South.

23. Taking abalone in eastern blacklip abalone part of the fishery

- (1) In this rule –

eastern blacklip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94(2) of the Act to be the eastern blacklip abalone part of the fishery;

western blacklip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94(2) of the Act to be the western blacklip abalone part of the fishery.

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- (2) If the holder of a fishing licence (abalone dive), on a fishing trip intends to take, or takes, abalone from the eastern blacklip abalone part of the fishery, he or she must not enter waters within the western blacklip abalone part of the fishery on that trip.

Penalty: Grade 3 penalty.

24. Taking abalone in northern area

- (1) If the holder of a fishing licence (abalone dive) intends to take blacklip abalone in the northern area on a fishing trip, he or she, subject to subrules (2), (4) and (6) –
- (a) must start and end that fishing trip within the northern area; and
 - (b) must not enter State waters that are not within the northern area.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (abalone dive) intending to take blacklip abalone in the northern area on a fishing trip may start the fishing trip from outside that area if –
- (a) the holder undertakes the fishing trip on a mother boat; and
 - (b) the holder completes a prior fishing report before the mother boat leaves port commencing that fishing trip; and

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- (c) no abalone is on that mother boat before it enters the northern area; and
 - (d) the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving port report; and
 - (e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area.
- (3) If the holder of a fishing licence (abalone dive) takes, or intends to take, on a fishing trip blacklip abalone in the northern area, he or she must not on that fishing trip take abalone from, or dive or swim in, State waters that are not within the northern area.
- Penalty: Grade 3 penalty.
- (4) If during a fishing trip the holder of a fishing licence (abalone dive) has taken blacklip abalone in the northern area, the holder may enter State waters not within that area if –
- (a) the holder is undertaking the fishing trip on a mother boat; and
 - (b) the supervisor of a fishing licence (vessel) for the mother boat has completed a leaving area report; and
 - (c) the mother boat leaves the northern area at the eastern boundary of the northern

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area at an imaginary line from the northern side of the mouth of the Great Musselroe River at Musselroe Bay running due west for 100 metres, then following the shoreline 100 metres from shore to the northernmost tip of Musselroe Point, then running due north until intersection with the line of latitude 40° 48' 00" South, and running due east to the outer limit of State waters; and

- (d) the mother boat –
 - (i) completes that fishing trip on the east coast of Tasmania north of an imaginary straight line running due east from the tip of St Helens Point, or within the waters of Georges Bay; and
 - (ii) does not enter State waters south of that line, other than within Georges Bay; and
 - (iii) proceeds directly to the site of unloading after leaving the northern area; and
- (e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area; and
- (f) the mother boat on which the fishing trip is undertaken is fitted with a vessel monitoring system.

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- (5) The holder of a fishing licence (abalone dive) must not take blacklip abalone in the northern area on a fishing trip unless the intention to do so is stated in the prior fishing report relating to that fishing trip.

Penalty: Grade 3 penalty.

- (6) If during a fishing trip the holder of a fishing licence (abalone dive) has taken blacklip abalone in the northern area, the holder may enter State waters not within that area if –
- (a) the holder is undertaking the fishing trip on a mother boat; and
 - (b) the supervisor of a fishing licence (vessel) for the mother boat has completed a leaving area report; and
 - (c) the mother boat leaves the northern area at the southern boundary of the northern area delineated by an imaginary straight line running due west from the mouth of the Arthur River to the limit of State waters; and
 - (d) the mother boat –
 - (i) completes that fishing trip on the west coast of Tasmania north of an imaginary line running due west from Cape Sorell to the limit of State waters, or within Macquarie Harbour; and

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- (ii) does not enter State waters south of that line other than in Macquarie Harbour or the channel into Macquarie Harbour; and
 - (iii) proceeds directly to the site of unloading after leaving the northern area; and
- (e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area; and
- (f) the mother boat on which that trip is undertaken is fitted with a vessel monitoring system.

25. Taking abalone in Bass Strait area

- (1) If the holder of a fishing licence (abalone dive) intends to take blacklip abalone in the Bass Strait area on a fishing trip, he or she, subject to subrules (2) and (4) –
 - (a) must start and end that fishing trip within the Bass Strait area; and
 - (b) must not enter State waters that are not within the Bass Strait area.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (abalone dive) intending to take blacklip abalone in the Bass

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Strait area on a fishing trip may start the fishing trip from outside that area if –

- (a) the holder undertakes the fishing trip on a mother boat; and
 - (b) the holder completes a prior fishing report before the mother boat leaves port commencing that fishing trip; and
 - (c) no abalone is on the mother boat before it enters the Bass Strait area; and
 - (d) the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving port report; and
 - (e) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the Bass Strait area; and
 - (f) the mother boat on which the fishing trip is undertaken is fitted with a vessel monitoring system.
- (3) If the holder of a fishing licence (abalone dive) on a fishing trip, intends to take, or takes, blacklip abalone from the Bass Strait area, he or she must not dive, swim or take abalone on that fishing trip in State waters that are not within the Bass Strait area.

Penalty: Grade 3 penalty.

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- (4) If during a fishing trip the holder of a fishing licence (abalone dive) has taken blacklip abalone in the Bass Strait area, the holder may enter State waters not within that area if –
- (a) the holder is undertaking the fishing trip on a mother boat; and
 - (b) the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone has completed a leaving area report; and
 - (c) if the mother boat leaves the Bass Strait area at the eastern boundary of the Bass Strait area at an imaginary line beginning where the line of longitude 147° 27' 00" East meets the high-water mark of the north coast of the mainland of Tasmania in Anderson Bay, then running due north until its junction with the line of latitude 40° 39' South, then due east along that line of latitude to the limit of State waters, the mother boat –
 - (i) completes that fishing trip north of an imaginary line running east from the tip of St Helens Point to the outer limit of State waters, or within the waters of Georges Bay; and
 - (ii) does not enter State waters south of that line running east from St Helens Point other than Georges Bay; and

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- (d) if the mother boat leaves the Bass Strait area at the western boundary of the Bass Strait area at the line of longitude 145° 22' 42" East, the mother boat –
 - (i) completes that fishing trip within the waters of the northern blacklip area; and
 - (ii) does not enter State waters that are not within the northern blacklip area; and
 - (e) the mother boat proceeds directly to the site of unloading after leaving the Bass Strait area; and
 - (f) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the Bass Strait area; and
 - (g) the mother boat on which the fishing trip is undertaken is fitted with a vessel monitoring system.
- (5) The holder of a fishing licence (abalone dive) must not take blacklip abalone in the Bass Strait area on a fishing trip unless the intention to take those abalone is stated in the prior fishing report relating to that fishing trip.

Penalty: Grade 3 penalty.

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26. Completing certain fishing trips within certain area

- (1) The supervisor of a fishing licence (vessel) for a mother boat who undertakes a fishing trip carrying the holder of a fishing licence (abalone dive) who has dived for, or has taken, blacklip abalone on that fishing trip in the northern area must complete that fishing trip within the northern area unless –
 - (a) the supervisor has completed a leaving area report; and
 - (b) the mother boat completes that fishing trip –
 - (i) on the west coast of Tasmania north of an imaginary line running due west from Cape Sorell to the outer limit of State waters, or within Macquarie Harbour; or
 - (ii) on the east coast of Tasmania north of an imaginary line running due east from the tip of St Helens Point or within the waters of Georges Bay; and
 - (c) the mother boat does not enter State waters south of the boundaries referred to in paragraph (b) other than in Macquarie Harbour or the channel into Macquarie Harbour on the west coast or the waters of Georges Bay on the east coast; and

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- (d) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the northern area; and
 - (e) the mother boat is fitted with a vessel monitoring system; and
 - (f) the mother boat proceeds directly to the site of unloading after leaving the northern area.

Penalty: Grade 3 penalty.

- (2) The supervisor of a fishing licence (vessel) for a mother boat who undertakes a fishing trip carrying the holder of a fishing licence (abalone dive) who has dived for, or has taken, blacklip abalone on that fishing trip in the Bass Strait area must complete that fishing trip within the Bass Strait area unless –
 - (a) the supervisor has completed a leaving area report; and
 - (b) the mother boat completes that fishing trip –
 - (i) in State waters within the northern blacklip area; or
 - (ii) on the north-east or east coast of Tasmania or other islands in State waters north of an imaginary line running due east from the tip of St Helens Point to the outer limit

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of State waters, or within the
waters of Georges Bay; and

- (c) the mother boat does not enter State waters that are not within the boundaries referred to in paragraph (b) except the waters of Georges Bay on the east coast; and
- (d) all fishing vessels and auxiliary vessels on that mother boat are securely fastened for the duration of the fishing trip while the mother boat is in any State waters other than the Bass Strait area; and
- (e) the mother boat is fitted with a vessel monitoring system; and
- (f) the mother boat proceeds directly to the site of unloading after leaving the Bass Strait area.

Penalty: Grade 3 penalty.

Division 3 – Vessels and apparatus

27. Possessing apparatus on vessel

- (1) Subject to subrule (2), a person must not have possession of the following on a fishing vessel that is being used to take, transport or store abalone for commercial purposes:
 - (a) a rock lobster pot;
 - (b) a rock lobster ring;

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- (c) a rock lobster;
- (d) a giant crab trap.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply to a person who has possession of one rock lobster pot or one rock lobster ring, if that rock lobster pot or rock lobster ring –
 - (a) was not on the fishing vessel at the time the fishing trip commenced; and
 - (b) was found in State waters; and
 - (c) does not have a mark by which the identity of the owner of the rock lobster pot or rock lobster ring can be established.

28. Taking abalone from certain vessels

- (1) Subject to subrule (2), the holder of a fishing licence (abalone dive) must not take abalone from a fishing vessel if that fishing vessel –
 - (a) is authorised to be used in the commercial taking and possession of abalone in Victoria; or
 - (b) has been lawfully used for the taking and possession of abalone in Victoria during the previous 12 months.

Penalty: Grade 3 penalty.

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(2) Subrule (1) does not apply if –

- (a) the holder of a fishing licence (abalone dive) has been notified in writing by the Secretary that the fishing vessel has been disinfected, cleaned or otherwise treated to the satisfaction of the Secretary; and
- (b) the fishing vessel has not been used for the taking or possession of abalone in Victoria after the notification referred to in paragraph (a).

29. Mother boat requirements

- (1) If undertaking a fishing trip for which the supervisor of a fishing licence (vessel) for a mother boat has made a leaving port report, the supervisor must ensure that –
 - (a) abalone are not taken from State waters other than the northern area; and
 - (b) abalone are not on the mother boat before it enters the northern area; and
 - (c) all fishing vessels and auxiliary vessels on the mother boat are securely fastened on the vessel while it is in any State waters other than the northern area.

Penalty: Grade 3 penalty.

- (2) If undertaking a fishing trip for which the supervisor of a fishing licence (vessel) for a mother boat has made a leaving port report, and the holder of a fishing licence (abalone dive)

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undertaking that fishing trip has indicated in a prior fishing report the intention to take blacklip abalone from the Bass Strait area on that fishing trip, the supervisor must ensure that –

- (a) abalone are not taken from State waters other than the Bass Strait area; and
- (b) abalone are not on the mother boat before it enters the Bass Strait area; and
- (c) all fishing vessels and auxiliary vessels on the mother boat are securely fastened on the vessel while it is in any State waters other than the Bass Strait area.

Penalty: Grade 3 penalty.

30. Vessel monitoring system on fishing vessel

The holder of a fishing licence (abalone dive) must not, in State waters, undertake a fishing trip which ends on a day other than the day on which the trip commenced unless –

- (a) the licensee's fishing vessel on which the fishing trip is undertaken is fitted with a vessel monitoring system; or
- (b) the licensee is fishing from, or fishing from a vessel that is operating from, a mother boat that is fitted with a vessel monitoring system.

Penalty: Grade 3 penalty.

31. Vessel monitoring system for Bass Strait area

(1) In this rule –

designated port means any one or more of the following:

- (a) Beauty Point;
- (b) Bridport;
- (c) Burnie;
- (d) Devonport;
- (e) George Town;
- (f) Killiecrankie on Flinders Island;
- (g) Lady Barron;
- (h) Low Head;
- (i) North East River;
- (j) Port Sorell;
- (k) Sisters Beach;
- (l) Tam O'Shanter Bay;
- (m) Wynyard;
- (n) the area within a radius of 50 metres on the landward side from the high-tide mark closest to the point of launching or retrieving a fishing vessel from anywhere on Flinders Island.

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- (2) The holder of a fishing licence (abalone dive) must not undertake a fishing trip on a fishing vessel during which he or she takes, or intends to take, blacklip abalone in the Bass Strait area unless that vessel is –
- (a) fitted with a vessel monitoring system; or
 - (b) a vessel that departs from and returns to a designated port; or
 - (c) transported by, and operates from, a mother boat where that operation includes –
 - (i) the transportation to and from areas of fishing; and
 - (ii) the carriage, storage and transportation to the site of unloading of all abalone taken by the holder of that licence on that fishing trip.

Penalty: Grade 3 penalty.

- (3) The supervisor of a fishing licence (vessel) under which a mother boat is authorised to carry abalone must not undertake a fishing trip on a fishing vessel carrying the holder of a fishing licence (abalone dive) during which that holder takes, or intends to take, blacklip abalone in the Bass Strait area unless that vessel is fitted with a vessel monitoring system.

Penalty: Grade 3 penalty.

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32. Vessel monitoring system requirements

The provisions of Part 3 of the *Fisheries Rules 2009* relating to a vessel monitoring system apply to the holder of a fishing licence (vessel).

33. Cauf not to be used for abalone

(1) In this rule –

cauf means a type of apparatus that –

- (a) is used for holding live abalone;
and
- (b) can sit in the water independently
of a vessel.

(2) The holder of a fishing licence (abalone dive) must not use a cauf for holding abalone.

Penalty: Grade 3 penalty.

Division 4 – Miscellaneous

34. All abalone above size limit to be landed

The holder of a fishing licence (abalone dive) who, on a fishing trip, takes an abalone that is not undersize and is within the quota limit of the relevant licence, must land that abalone.

Penalty: Grade 2 penalty.

35. Processor handling of abalone

- (1) The holder of a fish processing licence, on receipt of blacklip abalone taken from the northern blacklip area, must –
 - (a) transport and hold that abalone, before processing, in bins, containers or holding tanks; and
 - (b) ensure that the bins, containers or holding tanks are marked with the words “northern area” or a red tag marked with the words “northern area”.

Penalty: Grade 3 penalty.

- (2) The holder of a fish processing licence, on receipt of blacklip abalone taken from the Bass Strait area, must –
 - (a) transport and hold that abalone, before processing, in bins, containers or holding tanks; and
 - (b) ensure that the bins, containers or holding tanks are marked with the words “Bass Strait area” or a red tag marked with the words “Bass Strait area”.

Penalty: Grade 3 penalty.

36. Marine farmer handling of broodstock

- (1) In this rule –

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commercial abalone dive docket book means
a book containing commercial abalone
dive dockets.

- (2) On receipt of broodstock from the holder of a fishing licence (abalone dive), a marine farmer must –
- (a) complete a commercial abalone dive docket in accordance with Division 2 of Part 3 of the *Fisheries (Processing and Handling) Rules 2010* as if the marine farmer were the holder of a fish processing licence; and
 - (b) take the broodstock directly from the place of receipt to premises approved for the holding of broodstock.

Penalty: Grade 3 penalty.

- (3) A marine farmer must, within 48 hours of receiving broodstock from the holder of a fishing licence (abalone dive), report the following information to the Secretary:
- (a) the type and number of broodstock taken;
 - (b) the names of the divers who took the broodstock;
 - (c) the numbers of the dockets referred to in subrule (2)(a).

Penalty: Grade 3 penalty.

- (4) A marine farmer who has possession of broodstock must, in respect of each calendar

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year, prepare an annual report containing, in relation to each group of broodstock received by the marine farmer, the following information:

- (a) the type and number of broodstock taken;
 - (b) the names of the divers who took the broodstock;
 - (c) the numbers of the dockets referred to in subrule (2)(a);
 - (d) whether the broodstock are alive or dead;
 - (e) whether the marine farmer is still in possession of the broodstock;
 - (f) if the marine farmer is not in possession of the broodstock –
 - (i) how the broodstock were disposed of; and
 - (ii) to whom the broodstock were transferred.
- (5) A report prepared under subrule (4) must be submitted to the Secretary by 31 January of the following year.

Penalty: Grade 3 penalty.

- (6) A marine farmer must not take possession of abalone at his or her marine farm from the holder of a fish processing licence unless the abalone is broodstock.

Penalty: Grade 3 penalty.

Division 5 – Diving

37. Diving from vessel

A person must not –

- (a) dive from, or enter the water from, a fishing vessel or auxiliary vessel that is being used to take abalone for commercial purposes unless the person is the holder of a fishing licence (abalone dive); or
- (b) being the owner or master of a fishing vessel that is being used to take abalone for commercial purposes, permit any person to dive from, or enter the water from, that fishing vessel or an auxiliary vessel used in connection with the fishing vessel unless the person diving or entering the water is the holder of a fishing licence (abalone dive).

Penalty: Grade 3 penalty.

38. Diving teams

- (1) If 2 people each hold a fishing licence (abalone dive) they may form a diving team for a particular fishing trip.
- (2) Notwithstanding rule 10(2) and 15(3), a member of a diving team may take and have possession of abalone in accordance with the fishing licence (abalone dive) of the other member of the team as if the member were that other member.

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- (3) If 2 people who each hold a fishing licence (abalone dive) form a dive team for a fishing trip, both licensees must –
- (a) participate in diving on the fishing trip; and
 - (b) dive from the same vessel or auxiliary vessel whilst on the fishing trip; and
 - (c) start and finish the fishing trip on the same vessel.

Penalty: Grade 2 penalty.

- (4) A member of a diving team must not land abalone taken on a fishing trip from a vessel other than the vessel on which the trip was commenced.

Penalty: Grade 2 penalty.

- (5) A member of a diving team must not take abalone quota units that are held under a fishing licence (abalone quota) unless the fishing licence (abalone quota) is endorsed to permit the taking of abalone quota units by members of a diving team.

Penalty: Grade 2 penalty.

- (6) On a fishing trip to a part of the abalone fishery, the members of a diving team must not take or have possession of more abalone in total than the combined amount authorised to be taken or possessed on that trip under each member's fishing licence (abalone dive) for that part of the

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fishery, including any excess authorised under rules 56, 57 or 58.

Penalty: Grade 3 penalty.

PART 5 – REPORTING AND RECORDS

Division 1 – Reports

39. Reporting service

The Secretary may approve a service as the service that may receive reports under this Part.

40. Prior fishing report

- (1) In this rule –

greenlip abalone part of the fishery is the part of the commercial abalone fishery determined under section 94 of the Act to be the greenlip abalone part of the fishery.

- (2) The holder of a fishing licence (abalone dive), not more than 24 hours before entering State waters for the purpose of taking abalone for commercial purposes, must make a prior fishing report to the reporting service.

Penalty: Grade 2 penalty.

- (3) If the holder of a fishing licence (abalone dive) intends to take abalone in the northern area on a fishing trip, he or she must indicate that intention in the prior fishing report relating to that fishing trip.

Penalty: Grade 2 penalty.

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- (4) If the holder of a fishing licence (abalone dive) intends to take, on a fishing trip in the northern area, abalone with a shell length less than 132 millimetres, he or she must indicate this intention in the prior fishing report relating to that fishing trip.

Penalty: Grade 2 penalty.

- (5) If the holder of a fishing licence (abalone dive) intends to take blacklip abalone in the Bass Strait area on a fishing trip, he or she must indicate that intention in the prior fishing report relating to that fishing trip.

Penalty: Grade 2 penalty.

- (6) The holder of a fishing licence (abalone dive) must nominate, in the prior fishing report, the part of the fishery, other than the greenlip abalone part of the fishery, from which he or she intends to take abalone.

Penalty: Grade 2 penalty.

- (7) On receipt of a prior fishing report from a holder of a fishing licence (abalone dive), the reporting service is to issue to the holder a report receipt number.

41. Changing part of fishery report

- (1) Subject to subrule (2), the holder of a fishing licence (abalone dive) who has made a prior fishing report for a fishing trip may make a changing part of fishery report during that

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fishing trip to change the holder's intention to either take or not take abalone –

- (a) in a part of the fishery; or
 - (b) in the northern area; or
 - (c) in the northern area with a shell length less than 132 millimetres.
- (2) The holder of a fishing licence (abalone dive) may only make a changing part of fishery report under subrule (1) if –
- (a) the holder has not taken any abalone on the fishing trip at that time; and
 - (b) no abalone is on the vessel from which the holder is diving at that time; and
 - (c) the holder has not dived or swum beneath the surface of the water on that fishing trip at that time.
- (3) On receipt of a changing part of fishery report from a holder of a fishing licence (abalone dive), the reporting service is to issue to the holder a report receipt number.

42. Leaving port report

- (1) The supervisor of a fishing licence (vessel) for a mother boat must make a leaving port report to the reporting service not more than 24 hours and not less than 2 hours before the start of a fishing trip on that mother boat if –

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- (a) the supervisor intends to take the holder of a fishing licence (abalone dive) on that fishing trip; and
- (b) the holder intends to take blacklip abalone in the northern area on that fishing trip; and
- (c) the fishing trip starts outside the northern area.

Penalty: Grade 2 penalty.

- (2) The supervisor of a fishing licence (vessel) for a mother boat must make a leaving port report to the reporting service not more than 24 hours and not less than 2 hours before the start of a fishing trip on that mother boat if –
 - (a) the supervisor intends to take the holder of a fishing licence (abalone dive) on that fishing trip; and
 - (b) the holder intends to take blacklip abalone in the Bass Strait area on that fishing trip; and
 - (c) the fishing trip starts outside the Bass Strait area.

Penalty: Grade 2 penalty.

- (3) On receipt of a leaving port report from a supervisor, the reporting service is to issue to the supervisor a report receipt number.

43. Leaving area report

- (1) The supervisor of a fishing licence (vessel) for a mother boat who intends, during a fishing trip involving the mother boat, to leave the northern area to enter State waters as permitted by rule 24(4) or (6) or rule 22 must make a leaving area report to the reporting service no less than 2 hours before leaving the northern area.

Penalty: Grade 2 penalty.

- (2) The supervisor of a fishing licence (vessel) for a mother boat who intends, during a fishing trip involving the mother boat, to leave the Bass Strait area to enter State waters as permitted by rule 25 or 26 must make a leaving area report to the reporting service not less than 2 hours before leaving the Bass Strait area.

Penalty: Grade 2 penalty.

- (3) On receipt of a leaving area report from a supervisor, the reporting service is to issue to the supervisor a report receipt number.

44. Cancellation report

- (1) If a person who makes a report to the reporting service does not undertake the activity to which the report relates, the person must make a cancellation report to the reporting service.

Penalty: Grade 2 penalty.

- (2) A cancellation report is to be made –

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- (a) to the reporting service; and
 - (b) within 2 hours after the activity was due to occur.
- (3) On receipt of a cancellation report from a person, the reporting service is to issue to the person a report receipt number.

45. Prior landing report

- (1) If a mother boat is used to undertake a fishing trip which ends on a day other than the day on which it commenced, the supervisor of the fishing licence (vessel) under which the mother boat is authorised to carry abalone must make a prior landing report to the reporting service not less than 2 hours before any abalone taken on that trip are landed.

Penalty: Grade 2 penalty.

- (2) On receipt of a prior landing report from a person, the reporting service is to issue to the person a report receipt number.

46. Post fishing report

- (1) Subject to subrule (2), the holder of a fishing licence (abalone dive) must make a post fishing report to the reporting service –
 - (a) within 2 hours of landing, if no abalone were taken; or

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- (b) within 30 minutes of completing the commercial abalone dive docket under rule 48(1) or (2), if abalone were taken.

Penalty: Grade 2 penalty.

- (2) Subrule (1) does not apply to the holder of a fishing licence (abalone dive) who –
 - (a) delivers abalone within the landing area to the holder of a fish processing licence authorised to take abalone; and
 - (b) completes Part A of a commercial abalone dive docket in accordance with rule 48(1) or (2).
- (3) On receipt of a post fishing report from a holder of a fishing licence (abalone dive), the reporting service is to issue to the holder a report receipt number.

47. Recording and providing report receipt number

A person to whom a report receipt number is issued by a reporting service must –

- (a) record that report receipt number; and
- (b) provide that report receipt number when required to do so by a fisheries officer.

Penalty: Grade 2 penalty.

Division 2 – Dockets

48. Commercial abalone dive docket

- (1) The holder of a fishing licence (abalone dive) must complete the information relating to fishing in Part A of a commercial abalone dive docket –
 - (a) on the day on which the abalone are taken; and
 - (b) as soon as possible after that day's diving is completed.

Penalty: Grade 3 penalty.

- (2) The holder of a fishing licence (abalone dive) must complete the information relating to the taking of abalone in Part A of a commercial abalone dive docket –
 - (a) in the case of a licensee returning from a fishing trip on a mother boat, within 6 hours after the mother boat arrives at the site of unloading or the site where the licensee intends to unload the abalone; or
 - (b) in the case of a licensee returning from a fishing trip on a boat that is not a mother boat, within 4 hours after the abalone are landed; or
 - (c) within such longer period as a fisheries officer may authorise.

Penalty: Grade 3 penalty.

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- (3) If an authorisation under subrule (2)(c) is given orally, the fisheries officer is to confirm that authorisation in writing to the licensee as soon as practicable after it is given.
- (4) The holder of a fishing licence (abalone dive) must complete the information relating to the taking of abalone in Part A of a commercial abalone dive docket –
- (a) if the relevant processing premises are located within the landing area, before the abalone enters the premises, place or vehicle; or
 - (b) if the processing premises are within 100 metres of the site of unloading, or otherwise within the landing area –
 - (i) before the holder of a fish processing licence makes the receipt report relating to the abalone specified on that commercial abalone dive docket; and
 - (ii) before Part B of that commercial abalone dive docket is completed; and
 - (iii) within 15 minutes after the last abalone relating to that commercial abalone dive docket enters any place within processing premises that is capable of being fully enclosed; or

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- (c) in any other case, before the abalone leave the landing area.

Penalty: Grade 3 penalty.

- (5) The holder of a fishing licence (abalone dive) must –

- (a) send the pink sheet of the completed commercial abalone dive docket to the Secretary within 48 hours after Part B of the docket has been completed; and
- (b) retain the white sheet of the completed commercial abalone dive docket for at least 5 years.

Penalty: Grade 2 penalty.

49. Conflicts of interest

A person who was present when abalone were taken must not complete Part B of a commercial abalone dive docket, in respect of that abalone, unless that person has the written approval of the Secretary to do so.

Penalty: Grade 3 penalty.

50. Diving team dockets

- (1) Before commencing a fishing trip on which 2 holders of fishing licences (abalone dive) intend to form a diving team, each member of the proposed diving team must complete a diving team docket.

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Penalty: Grade 2 penalty.

- (2) A diving team docket is to be completed in addition to a commercial abalone dive docket.
- (3) When completing Part A of a commercial abalone dive docket, each member of the diving team must ensure that all abalone taken on the fishing trip are declared as to be deducted from the quota limit of one or other, or a combination of both, of the members of the team.

Penalty: Grade 2 penalty.

- (4) The holder of a fishing licence (abalone dive) who completes a diving team docket in respect of a fishing trip must –
 - (a) send the pink sheet of the completed diving team docket to the Secretary together with the pink sheet of the completed commercial abalone dive docket for that trip required to be sent to the Secretary under rule 48(5); and
 - (b) retain the white sheet of the completed diving team docket for 5 years.

Penalty: Grade 2 penalty.

51. Transfer dockets

The holder of a fishing licence (abalone dive) who completes a transfer docket under rule 56(8) in respect of a fishing trip must –

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- (a) send the pink sheet of the completed transfer docket to the Secretary together with the pink sheet of the completed commercial abalone dive docket for that trip required to be sent to the Secretary under rule 48(5); and
- (b) retain the white sheet of the completed transfer docket for 5 years.

Penalty: Grade 2 penalty.

52. Dockets to be clear and legible

The holder of a fishing licence (abalone dive) must ensure that information entered on a commercial abalone dive docket, diving team docket or transfer docket is recorded and maintained in a clear and legible manner on each sheet of that docket.

Penalty: Grade 2 penalty.

53. Unauthorised possession of unused docket book

- (1) In this rule –

docket means any of the following:

- (a) commercial abalone dive docket;
- (b) transfer docket;
- (c) diving team docket;
- (d) fish dispatch docket;

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(e) fish receipt docket.

- (2) Subject to subsection (3), a person must not have possession of an unused docket unless it was issued to the person and the person is the holder of a fishing licence (abalone dive) or a fish processing licence.

Penalty: Grade 3 penalty.

- (3) Subrule (2) 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 is the holder of a fishing licence (abalone dive) or a fish processing licence.

54. Return of unused docket book

A person who was the holder of a fishing licence (abalone dive) or a fish processing licence, within 14 days after the expiration or cancellation of the licence, must return to the Secretary the following unused dockets issued to that person:

- (a) commercial abalone dive docket;
- (b) transfer docket;
- (c) diving team docket;
- (d) fish dispatch docket;
- (e) fish receipt docket.

Penalty: Grade 2 penalty.

Division 3 – Records

55. Records by holders of fishing licence (abalone dive)

- (1) The holder of a fishing licence (abalone dive) must make and retain in Tasmania for a period of 10 years records that enable the following information to be determined in relation to operations conducted under the licence and in relation to business activities arising in connection with those operations:
 - (a) the date of any sale or consignment of abalone made by or on behalf of the holder;
 - (b) the exact weight of abalone sold or consigned;
 - (c) the price or consideration received for abalone;
 - (d) the name and address of the purchaser or consignee of abalone.

Penalty: Grade 2 penalty.

- (2) The holder of a fishing licence (abalone dive) 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

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- (c) produces the record to a fisheries officer within 7 days after receiving a written request from that fisheries officer for its production.

PART 6 – OVER-CATCH

56. Over-catch not more than 20%

- (1) Notwithstanding rules 10(2) and 15(3), if the holder of a fishing licence (abalone dive) takes on a fishing trip an amount of abalone that exceeds his or her quota limit by not more than 20%, he or she does not commit an offence if he or she deals with the excess abalone in accordance with this rule.
- (2) An excess of abalone referred to in subrule (1) may be –
 - (a) given to another holder of a fishing licence (abalone dive) in accordance with subrules (6), (7) and (8); or
 - (b) dealt with in accordance with subrule (9) or (10).
- (3) The holder of a fishing licence (abalone dive) who receives abalone under this rule is, notwithstanding rules 10(2) and 15(3), authorised to have possession of those abalone to the extent that they do not exceed his or her quota limit.
- (4) The holder of a fishing licence (abalone dive) who receives abalone under this rule must, when completing Part A of his or her commercial abalone dive docket, ensure that the amount of abalone received is declared as to be deducted from his or her quota limit as if he or she had taken those abalone.

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Penalty: Grade 3 penalty.

- (5) The holder of a fishing licence (abalone dive) must ensure that no abalone received under this rule is declared as to be deducted from abalone quota units held as fishing licence (abalone quota) unless the fishing licence (abalone quota) is endorsed to permit such a deduction.

Penalty: Grade 2 penalty.

- (6) Before completing Part A of the commercial abalone dive docket, the holder of a fishing licence (abalone dive) may give an amount of abalone taken in excess of the quota limit to another holder of a fishing licence (abalone dive) if the licence holder receiving the abalone –
- (a) is completing a commercial fishing trip for abalone; and
 - (b) is within the landing area of the licence holder who is giving the abalone; and
 - (c) by accepting the abalone would not exceed his or her quota limit.
- (7) If the holder of a fishing licence (abalone dive) intends to give abalone to another holder of a fishing licence (abalone dive) under this rule, the licence holder who is giving the abalone must ensure that no abalone taken by him or her on the fishing trip leaves the landing area until after that transfer is complete.

Penalty: Grade 3 penalty.

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- (8) Each licence holder referred to in subrules (6) and (7) must complete and sign a transfer docket –
- (a) before completing Part A of the commercial abalone dive docket; and
 - (b) before any abalone taken on their respective fishing trips leave their respective landing areas.

Penalty: Grade 3 penalty.

- (9) If the holder of a fishing licence (abalone dive) does not give the excess abalone to another holder of a fishing licence (abalone dive), he or she must –
- (a) before the end of the quota period in which the abalone were taken, provide the Secretary with such information as the Secretary may require in order for additional quota units to be specified on the fishing licence (abalone dive) against which all or part of the excess abalone is to be reconciled; or
 - (b) pay to the Crown, in respect of any excess abalone not dealt with under paragraph (a), an amount equal to –
 - (i) the last beach price for the abalone, calculated in accordance with the *Fisheries (General and Fees) Regulations 2016*, for any amount of abalone that exceeds

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the quota limit by not more than 10%; and

- (ii) twice that price for any amount that exceeds that limit by more than 10% and not more than 20%.

Penalty: Grade 3 penalty.

- (10) If the fishing trip is the last trip for a quota period to a particular part of the fishery by the holder of a fishing licence (abalone dive), in respect of any excess abalone not dealt with under subrule (9) –

- (a) the licence holder must pay to the Crown an amount equal to –

- (i) the last beach price for the quota period in which the abalone were taken, calculated in accordance with the *Fisheries (General and Fees) Regulations 2016*, for any amount of abalone that exceeds the quota limit by not more than 10%; and

- (ii) twice that price for any amount that exceeds that limit by more than 10% and not more than 20%; or

- (b) in the case of a licence holder who intends to sell or otherwise dispose of his or her licence, or a supervisor who intends to cease to be a supervisor in respect of such a licence, the licence

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holder or supervisor may pay to the Crown an amount equal to –

- (i) the last beach price for the abalone, calculated in accordance with the *Fisheries (General and Fees) Regulations 2016*, for any amount of abalone that exceeds the quota limit by not more than 10%; and
 - (ii) twice that price for any amount that exceeds that limit by more than 10% and not more than 20%.
- (11) If the holder of a fishing licence (abalone dive) pays an amount to the Crown under subrule (9)(b) or subrule (10) for excess abalone, the excess abalone need not be reconciled against the amount of abalone specified on his or her licence.
- (12) The holder of a fishing licence (abalone dive) who takes excess abalone from a part of the fishery in a quota period must not dive in that part of the fishery in that quota period until the excess abalone have been dealt with in accordance with this rule.

Penalty: Grade 3 penalty.

- (13) If the holder of a fishing licence (abalone dive) is required to pay an amount to the Crown for excess abalone under subrule (9)(b) or subrule (10), that amount must be paid within –

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- (a) 30 days after the licence holder has been notified by the Secretary that the licence holder has excess abalone for that quota period; or
- (b) such longer period, if any, as the Secretary determines.

57. Over-catch more than 20%

- (1) In this rule –

specified period means –

- (a) 30 days after the licence holder has been notified by the Secretary that the licence holder has excess abalone for that quota period; or
- (b) such longer period, if any, as the Secretary determines.

- (2) This rule applies if the holder of a fishing licence (abalone dive) –

- (a) takes on a fishing trip an amount of abalone that exceeds the licensee's quota limit by more than 20% but not by more than 30%; or
- (b) the abalone in excess of 20% of the licence holder's quota limit weighs less than 20 kilograms.

- (3) Notwithstanding rules 10(2) and 15(3), the holder of a fishing licence (abalone dive) referred to in subrule (2) does not commit an

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offence if he or she, within the specified period, pays to the Crown in respect of the excess abalone an amount equal to twice the last beach price for the excess abalone calculated in accordance with the *Fisheries (General and Fees) Regulations 2016*.

58. Over-catch more than 30%

- (1) Notwithstanding any other provision of these Rules, if the holder of a fishing licence (abalone dive) takes on a fishing trip an amount of abalone that exceeds his or her quota limit by more than 30%, the amount of abalone that exceeds his or her quota limit by not more than 30% may be dealt with in accordance with rule 57 as if the total amount of abalone taken on the fishing trip exceeded the licensee's quota limit by more than 20% but not by more than 30%.
- (2) Nothing in subrule (1) is to be taken as preventing any proceedings or actions from being taken against the holder of a fishing licence (abalone dive) in respect of such amount of the over-catch referred to in subrule (1) as is not dealt with in accordance with rule 57.

59. Restriction on diving in part of fishery if over-catch

If the holder of a fishing licence (abalone dive) –

- (a) takes from a part of the fishery abalone in excess of his or her quota limit; and

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-
- (b) pays an amount to the Crown for the excess abalone in accordance with rules 56(9)(b) or 57(3) –

he or she must not dive in that part of the fishery in that quota period.

Penalty: Grade 3 penalty.

PART 7 – MISCELLANEOUS

60. Landing areas

The following are landing areas:

- (a) at Great Musselroe Bay, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing in Great Musselroe Bay;
- (b) at Bluff Hill Point, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing in Mawson Bay;
- (c) at Couta Rocks, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing at Couta Rocks;
- (d) at Garden Point near Port Arthur, the area within a radius of 500 metres on the landward side from the high-tide mark closest to the launching ramp in Long Bay;
- (e) at a place within 5 kilometres of Granville Harbour, the area within a radius of 1 500 metres on the landward side from the high-tide mark closest to the point of landing;
- (f) at Green Point near Marrawah, the area of Green Point Road to the intersection

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of Green Point Road and Comeback Road;

- (g) at Ocean Beach, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing at Braddon Point;
- (h) at Petal Point, the area within a radius of 150 metres on the landward side from the high-tide mark closest to the commencement of the access road at the southern end of Lemons Beach;
- (i) at South Arm, the area within a radius of 500 metres on the landward side from the high-tide mark closest to the launching ramp in Halfmoon Bay;
- (j) at Temma, the area within a radius of 200 metres on the landward side from the high-tide mark closest to the point of landing in Temma Harbour;
- (k) at Trial Harbour, the area within a radius of 300 metres on the landward side from the high-tide mark closest to the point of landing in Trial Harbour;
- (l) at Southport, at the boat ramp on the northern side of the Southport narrows, an area that is within 50 metres of the landward side of the high-water mark of that boat ramp, including Kingfish Beach Road in an easterly direction of that boat ramp until that road intersects with the Huon Highway, and an area 30 metres in

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any direction from the centre of that intersection;

- (m) at any other place, the area within a radius of 50 metres on the landward side from the high-tide mark closest to the point of landing.

61. Infringement notice offences and penalties

For the purposes of section 42(2) of the Act –

- (a) an offence against a provision of these rules specified in column 2 of Schedule 1 is a prescribed offence for the purposes of Division 5 of Part 9 of the Act; and
- (b) the penalty specified in column 3 of that Schedule opposite that provision is the prescribed penalty applicable to that offence.

62. Legislation rescinded

The legislation specified in Schedule 2 is rescinded.

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SCHEDULE 1 – INFRINGEMENT NOTICE OFFENCES

Column 1 Item	Column 2 Provision of rules	Rule 61 Column 3 Penalty (penalty units)
1.	Rule 9(3)	10
2.	Rule 9(4)	10
3.	Rule 15(2)	10
4.	Rule 15(3)	10
5.	Rule 15(4)	10
6.	Rule 15(5)	10
7.	Rule 15(6)	5
8.	Rule 15(7)	5
9.	Rule 16(2)	5
10.	Rule 17(1)	10
11.	Rule 17(2)	10
12.	Rule 17(3)	10
13.	Rule 18(1)	8
14.	Rule 18(2)	8
15.	Rule 18(3)	8

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Column 1	Column 2	Column 3
Item	Provision of rules	Penalty (penalty units)
16.	Rule 19(1)	8
17.	Rule 19(2)	8
18.	Rule 19(5)	8
19.	Rule 20(2)	8
20.	Rule 20(3)	8
21.	Rule 20(4)	8
22.	Rule 20(5)	8
23.	Rule 21(1)	8
24.	Rule 21(2)	8
25.	Rule 21(3)	8
26.	Rule 22(1)	10
27.	Rule 23(2)	8
28.	Rule 24(1)	8
29.	Rule 24(3)	8
30.	Rule 24(5)	8
31.	Rule 25(1)	8
32.	Rule 25(3)	8

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Column 1	Column 2	Column 3
Item	Provision of rules	Penalty (penalty units)
33.	Rule 25(5)	8
34.	Rule 26(1)	8
35.	Rule 26(2)	8
36.	Rule 27(1)	8
37.	Rule 28(1)	10
38.	Rule 29(1)	8
39.	Rule 29(2)	8
40.	Rule 30	10
41.	Rule 31(2)	8
42.	Rule 31(3)	8
43.	Rule 33(2)	5
44.	Rule 34	6
45.	Rule 35(1)	8
46.	Rule 35(2)	8
47.	Rule 36(2)	6
48.	Rule 36(3)	6
49.	Rule 36(5)	6

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Column 1	Column 2	Column 3
Item	Provision of rules	Penalty (penalty units)
50.	Rule 36(6)	6
51.	Rule 37	8
52.	Rule 38(3)	5
53.	Rule 38(4)	5
54.	Rule 38(5)	5
55.	Rule 38(6)	6
56.	Rule 40(2)	3
57.	Rule 40(3)	3
58.	Rule 40(4)	3
59.	Rule 40(5)	3
60.	Rule 40(6)	3
61.	Rule 42(1)	3
62.	Rule 42(2)	3
63.	Rule 43(1)	3
64.	Rule 43(2)	3
65.	Rule 44(1)	3
66.	Rule 45(1)	3

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Column 1	Column 2	Column 3
Item	Provision of rules	Penalty (penalty units)
67.	Rule 46(1)	3
68.	Rule 47	3
69.	Rule 48(1)	7
70.	Rule 48(2)	7
71.	Rule 48(4)	7
72.	Rule 48(5)	4
73.	Rule 49	5
74.	Rule 50(1)	4
75.	Rule 50(3)	4
76.	Rule 50(4)	4
77.	Rule 51	4
78.	Rule 52	4
79.	Rule 53(2)	8
80.	Rule 54	4
81.	Rule 55	4
82.	Rule 56(4)	7
83.	Rule 56(5)	7

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Column 1	Column 2	Column 3
Item	Provision of rules	Penalty (penalty units)
84.	Rule 56(7)	4
85.	Rule 56(8)	7
86.	Rule 56(9)	7
87.	Rule 56(12)	8
88.	Rule 59	8

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SCHEDULE 2 – LEGISLATION RESCINDED

Rule 62

Fisheries (Abalone) Rules 2009 (No. 151 of 2009)

Fisheries (Abalone) Amendment Rules 2014 (No. 88 of 2014)

Fisheries (Abalone) Amendment Rules 2017 (No. 12 of 2017)

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

Notified in the *Gazette* on 6 December 2017.

EXPLANATORY NOTE
(This note is not part of the rules)

These rules –

- (a) provide for the management of the abalone fishery; and
- (b) replace the *Fisheries (Abalone) Rules 2009*.