

TASMANIA

FISHERIES RULES 2019
STATUTORY RULES 2019, No. 67

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Consultation arrangements

PART 2 – GENERAL PROVISIONS

Division 1 – Taking or possessing fish

5. Using vessel without fishing licence (vessel)
6. Taking fish for sale without fishing licence (personal)
7. Authority of fishing licence (personal)
8. Restrictions on use of apparatus
9. Fishing in offshore waters
10. Closed and open seasons
11. Taking fish in certain waters
12. Marine nature reserve
13. Receipt for purchase of fish for sale or resale
14. Receipt for sale of fish
15. Prohibition on sale of certain fish

Division 2 – Marks and measurements

- 16. Distinguishing marks for fishing vessels
- 17. Auxiliary vessels
- 18. Limits, tags and markings
- 19. Nature of buoys

Division 3 – Vessels

- 20. Vessel length
- 21. Use of fishing licence (vessel)
- 22. Use of multiple fishing licence (vessel)
- 23. Cancellation of fishing licence (vessel)

PART 3 – VESSEL MONITORING

- 24. Use of vessel monitoring system
- 25. Fitting of approved automatic location communicator
- 26. Effective operation of vessel monitoring system
- 27. Irregular position data transmission
- 28. Exclusion zones for vessels with approved automatic location communicators

PART 4 – SHELLFISH FISHERY

Division 1 – Scallop spat collection fishery

- 29. Taking and possessing scallop spat
- 30. Authority of fishing licence (scallop spat collection)
- 31. Selling and buying scallop spat

Division 2 – Mussel spat collection fishery

- 32. Taking and possessing mussel spat
- 33. Authority of fishing licence (mussel spat collection)
- 34. Selling and buying mussel spat

PART 5 – MISCELLANEOUS

- 35. Taking Undaria
- 36. Infringement notices offences and penalties
- 37. Transitional provision

SCHEDULE 1 – KENT GROUP NATIONAL PARK

SCHEDULE 2 – SOUTHWEST NATIONAL PARK

SCHEDULE 3 – SCALLOP SPAT

SCHEDULE 4 – INFRINGEMENT NOTICES

FISHERIES RULES 2019

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

Dated 11 November 2019.

GUY BARNETT
Minister for Primary Industries and Water

PART 1 – PRELIMINARY

1. Short title

These rules may be cited as the *Fisheries Rules 2019*.

2. Commencement

These rules take effect on the day on which their making is notified in the *Gazette*.

3. Interpretation

In these rules –

abalone means fish of the genus *Haliotis*;

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

approved automatic location communicator
means an automatic location

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 3

Part 1 – Preliminary

communicator of an approved make, model or type;

approved location means a location determined by a fisheries officer for the purpose of Part 3;

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) not operated further than 2 nautical miles from the fishing vessel;

closed season means a season or period during which all or part of a fishery is closed for fishing;

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

distinguishing mark means a mark allocated under rule 16;

fish merchant means –

- (a) the holder, or supervisor, of any licence other than a recreational fishing licence; or

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 1 – Preliminary

r. 3

(b) a person who sells fish;

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;

Great Oyster Bay means the waters enclosed
north of an imaginary straight line
extending from the southern extremity of
Freycinet Peninsula to Seaford Point;

marine nature reserve means the following
areas of land:

- (a) Governor Island Marine Nature
Reserve;
- (b) Kent Group National Park;
- (c) Macquarie Island Nature
Reserve;
- (d) Maria Island National Park;
- (e) Ninepin Point Marine Nature
Reserve;
- (f) Southwest National Park;

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 3

Part 1 – Preliminary

- (g) Tinderbox Marine Nature Reserve;

marine plant has the same meaning as in the *Fisheries (Marine Plant) Rules 2017*;

marine plant licence means one of the following licences:

- (a) fishing licence (introduced marine plant);
- (b) fishing licence (King Island kelp);
- (c) fishing licence (marine plant);
- (d) fishing licence (*Undaria*);

mussel means molluscan bivalve of the family *Mytilidae*;

mussel spat means a mussel, the shell of which is less than 40 millimetres in length;

mussel spat collector means –

- (a) any rope, tape or other device used for collecting or taking mussel spat; and
- (b) any associated floats, ropes or moorings;

octopus means fish of the genus *Octopus*;

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 1 – Preliminary

r. 3

offshore waters means State waters that are not –

- (a) coastal waters; or
- (b) within the limits of the State;

open season, in relation to a fishery for a kind or species of fish, means a season or period during which all or part of the fishery is open for fishing;

operating, in relation to an approved automatic location communicator, means the communicator is –

- (a) transmitting the position of the fishing vessel as required; and
- (b) receiving and accurately responding to electronic data;

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;

recreational fishing licence means one of the following licences:

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 3

Part 1 – Preliminary

- (a) fishing licence (recreational abalone);
- (b) fishing licence (recreational beach seine net);
- (c) fishing licence (recreational graball net);
- (d) fishing licence (recreational lobster pot);
- (e) fishing licence (recreational mullet net);
- (f) fishing licence (recreational rock lobster dive);
- (g) fishing licence (recreational rock lobster ring);
- (h) fishing licence (recreational scallop);
- (i) fishing licence (recreational set line);
- (j) fishing licence (recreational special rock lobster);

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

rock lobster pot means –

- (a) a basket, trap, cage or other contrivance (other than a rock lobster ring) that is designed for

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 1 – Preliminary

r. 3

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 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 connection with the taking of rock lobster;

scallop means fish of the species –

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

scallop spat means a scallop that is less than 40 millimetres at its widest part when measured in accordance with Schedule 3;

scallop spat collector means –

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 3

Part 1 – Preliminary

- (a) a frame, cage or other device used for collecting or taking scallop spat; and
- (b) any associated floats, ropes or moorings;

set means to place in State waters;

shellfish licence means one of the following licences:

- (a) fishing licence (clam – Georges Bay North);
- (b) fishing licence (clam – Georges Bay South);
- (c) fishing licence (cockle – Ansons Bay);
- (d) fishing licence (native oyster – Georges Bay);
- (e) fishing licence (Pacific oyster);

system, in relation to a vessel monitoring system, includes the component subsystems of –

- (a) power supply; and
- (b) communication hardware and software; and
- (c) communication service providers;

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 1 – Preliminary

r. 3

Taroona waters means the waters of the River Derwent within 800 metres of the shore at Crayfish Point, Taroona, bounded by an imaginary line that –

- (a) commences at the point on the high-water mark on the River Derwent at the prolongation of Nubeena Crescent; and
- (b) continues south-easterly for a distance of approximately 800 metres; and
- (c) continues from there by a southerly and south-westerly line parallel to, and 800 metres from, that high-water mark to a point on a line joining Piersons Point with the public boat ramp on the foreshore at Taroona; and
- (d) continues from that ramp by the high-water mark to the point of commencement in paragraph (a);

Undaria has the same meaning as in the *Fisheries (Marine Plant) Rules 2017*;

vessel monitoring system means a satellite-based tracking system that monitors the location of vessels and includes an approved automatic location communicator;

wild, in relation to the location of any species or kind of fish, means State waters other

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 4

Part 1 – Preliminary

than those to which a marine farming licence, specifying that species or kind of fish, relates.

4. Consultation arrangements

The Minister is to consult with the appropriate advisory committee or, if there is no appropriate advisory committee, each appropriate fishing body established in relation to the fisheries, specified in these rules, in respect of any changes relating to –

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

PART 2 – GENERAL PROVISIONS

Division 1 – Taking or possessing fish

5. Using vessel without fishing licence (vessel)

- (1) Subject to subrules (2), (3) and (4), a person must not use for commercial purposes, in State waters, a vessel for fishing or carrying fish unless the vessel is specified in a fishing licence (vessel) –

- (a) held by that person; or
- (b) for which that person is the supervisor under the Act.

Penalty: Grade 2 penalty.

- (2) Subrule (1) does not apply to a person using an auxiliary vessel in accordance with rule 17.
- (3) Subrule (1) does not apply to the holder of a marine farming licence, or a person acting with the authority of that holder, while the person is using a fishing vessel –
- (a) within the waters to which the licence relates; or
 - (b) for any purpose or activity carried out in accordance with the licence; or
 - (c) for the purpose of taking mussel spat from the wild in accordance with a

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 6

Part 2 – General Provisions

fishing licence (mussel spat collection);
or

(d) for the purpose of taking scallop spat
from the wild in accordance with a
fishing licence (scallop spat collection).

(4) Subrule (1) does not apply to the holder, or supervisor, of a fishing licence (abalone dive), fishing licence (commercial dive), marine plant licence or shellfish licence if the holder of the licence is diving from a fishing vessel that is specified in a fishing licence (vessel).

(5) A person must not take fish for commercial purposes using a fishing vessel unless the fish are taken for that purpose in accordance with an authorisation.

Penalty: Grade 2 penalty.

6. Taking fish for sale without fishing licence (personal)

(1) A person must not take fish for commercial purposes under an authorisation unless the person is also the holder of a fishing licence (personal).

Penalty: Grade 2 penalty.

(2) Subrule (1) does not apply in respect of a person taking fish in accordance with a marine plant licence.

7. Authority of fishing licence (personal)

Unless otherwise specified under the Act, a fishing licence (personal) only authorises the activities specified in the licence.

8. Restrictions on use of apparatus

A person must not use apparatus to take fish unless the person –

- (a) is using the apparatus in accordance with an authorisation that applies in respect of the person; or
- (b) is otherwise authorised under the Act.

Penalty: Grade 3 penalty.

9. Fishing in offshore waters

- (1) Subject to subrule (2), a person who is the holder of a fishing licence (personal) must not undertake any fishing in offshore waters unless the person –

- (a) is the holder of a Commonwealth authority; and
- (b) is undertaking the fishing in accordance with that Commonwealth authority.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply to the following persons:

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 10

Part 2 – General Provisions

- (a) the holder, or supervisor, of a fishing licence (scallop) while taking scallop in accordance with that licence;
- (b) the holder, or supervisor, of a fishing licence (abalone dive) while taking abalone in accordance with that licence;
- (c) the holder, or supervisor, of a fishing licence (giant crab) while taking giant crab in accordance with that licence;
- (d) the holder, or supervisor, of a fishing licence (rock lobster) while taking rock lobster in accordance with that licence;
- (e) the holder, or supervisor, of a fishing licence (rock lobster) while fishing –
 - (i) for fish of the superclass Pisces; and
 - (ii) with not more than the apparatus permitted to be used under the *Fisheries (Scalefish) Rules 2015* to take fish of that superclass;
- (f) the holder, or supervisor, of a fishing licence (octopus) while taking octopus in accordance with that licence.

10. Closed and open seasons

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

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 10

-
- (a) the dates of the closed season for a specified fishery or specified part of a fishery; and
 - (b) the dates of the open season for a specified fishery or specified part of a fishery; and
 - (c) that any part of a specified fishery is closed to, or in respect of, specified activities for such period as is specified in the notice.
- (2) A person must not –
- (a) take any kind or species of fish from State waters that are closed to the fishery for that kind of fish; or
 - (b) be in possession of a kind or species of fish in State waters that are closed in respect of the fishery for that kind of fish; or
 - (c) undertake an activity of a type specified in a determination under subrule (1)(c) during the period, and in the fishery, specified in that determination for that activity.

Penalty: Grade 3 penalty.

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

Penalty: Grade 3 penalty.

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 11

Part 2 – General Provisions

- (4) It is a defence in proceedings for an offence against subrule (2) or (3) if the defendant establishes that the fish were –
- (a) taken, bought, sold or in his or her possession during an open season for the fishery in respect of the fish; or
 - (b) scallop spat taken under a fishing licence (scallop spat collection); or
 - (c) mussel spat taken under a fishing licence (mussel spat collection); or
 - (d) taken from a marine farm –
 - (i) by the holder of a marine farming licence or a permit relating to marine farming; or
 - (ii) in accordance with such a licence or permit.

11. Taking fish in certain waters

- (1) A person, in Taroona waters, must not –
- (a) take fish by diving or swimming; or
 - (b) have possession of any abalone or rock lobster.

Penalty: Grade 3 penalty.

- (2) A person, within 200 metres from Taroona waters, must not –
- (a) take abalone or rock lobster; or

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 12

- (b) have possession of any abalone, or rock lobster, while diving or swimming; or
- (c) set, or use, a gillnet.

Penalty: Grade 3 penalty.

12. Marine nature reserve

- (1) In this rule –

restricted fishing means the following types of fishing:

- (a) taking abalone by diving;
 - (b) taking rock lobster by –
 - (i) diving; or
 - (ii) rock lobster pots; or
 - (iii) rock lobster rings;
 - (c) taking scalefish by –
 - (i) trolling; or
 - (ii) line fishing with 5 or fewer hooks.
- (2) Subject to subrules (3), (4) and (5), a person must not –
- (a) take any fish from State waters within a marine nature reserve; or
 - (b) have possession of any fish so taken.

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 12

Part 2 – General Provisions

Penalty: Grade 3 penalty.

- (3) Subrule (2) does not apply to State waters within the Maria Island National Park that lie to the east of an imaginary line between Cape Boullanger and Cape Bougainville.
- (4) Subrule (2) does not apply to restricted fishing within –
 - (a) the area within the Kent Group National Park that is identified as being a restricted take zone on a plan in Part 1 of Schedule 1; or
 - (b) the area within the Southwest National Park that is identified as being a restricted take zone on a plan in Part 1 of Schedule 2.
- (5) Subrule (2) does not apply to a person if the person is –
 - (a) the holder of a fishing licence (personal) endorsed in accordance with subrule (6); and
 - (b) acting in accordance with that endorsement.
- (6) The Minister may endorse a fishing licence (personal) to allow the holder of the licence to do one or more of the following:
 - (a) use apparatus specified in the endorsement in specified State waters within a marine nature reserve;

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 13

-
- (b) take species or types of fish specified in the endorsement from specified State waters within a marine nature reserve;
 - (c) possess or sell fish taken in accordance with the endorsement.
 - (7) In determining whether or not to endorse a licence in accordance with subrule (6), the Minister is to have regard to the environmental impact of the apparatus specified in the licence.
 - (8) The Minister may endorse a licence in accordance with subrule (6) subject to the conditions that the Minister considers appropriate and specifies in the endorsement.
 - (9) The Minister is not to endorse a licence in accordance with subrule (6) to allow the holder of the licence to take fish within an area that –
 - (a) is within a marine nature reserve; and
 - (b) is identified as being a no take zone on a plan in the Central Plan Register.

13. Receipt for purchase of fish for sale or resale

- (1) Subject to subrule (3), a person who obtains fish for the purpose of sale must –
 - (a) at the time of obtaining or purchasing the fish, obtain a receipt for the fish that contains the information specified in subrule (2); and

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 13

Part 2 – General Provisions

- (b) keep the receipt on the premises where the fish are held until sold; and
- (c) retain the receipt in good condition for a period of not less than 5 years after the date of obtaining the receipt; and
- (d) if required to do so by a fisheries officer, produce the receipt for examination within the period specified by the fisheries officer.

Penalty: Grade 2 penalty.

- (2) A receipt referred to in subrule (1)(a) must contain the following information:
 - (a) the name and business address of the person from whom the fish were obtained or purchased;
 - (b) the date on which the fish were obtained or purchased, or the date on which the fish were received;
 - (c) the species of, or a recognised common name for, each type of fish obtained or purchased;
 - (d) the quantity and weight of each type of fish obtained or purchased;
 - (e) if –
 - (i) the fish were obtained, or purchased, from the person who took the fish; and

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 13

- (ii) he or she used a fishing vessel to take the fish –

the name and distinguishing mark of the fishing vessel used to take the fish;

- (f) the name and address of the person obtaining or purchasing the fish.

- (3) Subrule (1) does not apply to abalone obtained from the holder of a fishing licence (abalone dive).

- (4) Subject to subrule (5), a person who is not authorised to take a kind or species of fish for sale must not have in his or her possession that kind or species of fish, for the purpose of sale or resale, unless the person also has a receipt referred to in subrule (1) in respect of that fish.

Penalty: Grade 2 penalty.

- (5) Subrule (4) does not apply to the following:

- (a) rock lobster in the possession of the holder, or supervisor, of –

- (i) a fishing licence (rock lobster); or

- (ii) a handling licence endorsed to handle rock lobster; or

- (iii) a fish processing licence endorsed to process rock lobster;

- (b) giant crab in the possession of the holder, or supervisor, of –

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 13

Part 2 – General Provisions

- (i) a fishing licence (giant crab); or
 - (ii) a fishing licence (rock lobster); or
 - (iii) a fish processing licence endorsed to process giant crab;
- (c) abalone in the possession of –
 - (i) the holder, or supervisor, of a fishing licence (abalone dive); or
 - (ii) a person who purchases, or otherwise obtains, the abalone from the holder or supervisor of that licence;
- (d) scallop in the possession of the holder, or supervisor, of –
 - (i) a fishing licence (scallop); or
 - (ii) a fish processing licence endorsed to process scallop;
- (e) banded morwong in the possession of the holder, or supervisor, of –
 - (i) a fishing licence (banded morwong); or
 - (ii) a fish processing licence endorsed to process banded morwong;
- (f) fish of any other kind or species in the possession of the holder of a fishing licence (personal);

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 14

-
- (g) fish bred, reared, grown or taken under a marine farming licence, or under a permit relating to marine farming, and in the possession of the holder of that licence or permit.
 - (6) It is a defence in proceedings for an offence against subrule (4) if the defendant establishes that the fish were obtained directly from a person who carries on the business of selling fish outside Tasmania.

14. Receipt for sale of fish

- (1) If a fish merchant sells fish to a person, the fish merchant must supply the person with a receipt in respect of the fish –
 - (a) if the fish so sold contains –
 - (i) rock lobster; or
 - (ii) giant crab; or
 - (iii) abalone; or
 - (iv) scallop; or
 - (v) more than 5 kilograms of any other species or combination of any other species; or
 - (b) if the person who has purchased the fish requests a receipt.

Penalty: Grade 2 penalty.

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 15

Part 2 – General Provisions

- (2) If a fish merchant supplies a person with a receipt under subrule (1), the fish merchant must –
- (a) retain a copy of the receipt in good condition for a period of not less than 5 years after supplying the receipt; and
 - (b) if required to do so by a fisheries officer, produce the receipt for examination within the period specified by the fisheries officer.

Penalty: Grade 2 penalty.

15. Prohibition on sale of certain fish

- (1) A person must not sell fish taken –
- (a) under a recreational fishing licence; or
 - (b) by a person who is fishing for recreational purposes; or
 - (c) by an Aborigine who is engaged in an Aboriginal activity.

Penalty: Grade 3 penalty.

- (2) Subrule (1) does not apply in respect of fish taken by an Aborigine, while he or she was engaged in an Aboriginal activity, if the fish is of a kind or type specified in Schedule 5 to the *Fisheries (General and Fees) Regulations 2016*.

Division 2 – Marks and measurements

16. Distinguishing marks for fishing vessels

- (1) A person may apply to the Secretary for the allocation of a vessel distinguishing mark in respect of a fishing vessel.
- (2) On receipt of an application under subrule (1) or on the Secretary's own initiative, the Secretary is to –
 - (a) allocate a distinguishing mark in respect of a fishing vessel; and
 - (b) if the distinguishing mark is allocated as a result of an application under subrule (1), advise the applicant of that mark; and
 - (c) if the distinguishing mark is allocated on the Secretary's own initiative, advise the owner of the fishing vessel of that mark.
- (3) The Secretary is not to allocate a distinguishing mark to a vessel if that mark has previously been allocated to another vessel.
- (4) A distinguishing mark –
 - (a) consists of any combination of letters, or letters and numerals, the Secretary determines; and
 - (b) subject to subrule (5), is to be painted or displayed –

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 16

Part 2 – General Provisions

- (i) in the case of a distinguishing mark painted or displayed on the side of the hull of a vessel – in white characters on a dark background, or in dark characters on a white background, with characters of not less than 150 millimetres high, not less than 25 millimetres wide; and
 - (ii) in the case of a distinguishing mark painted or displayed on a wheelhouse or deck of a vessel – in black characters on an orange background surrounded by a black border, with characters of not less than 900 millimetres high, not less than 75 millimetres wide and spaced 100 millimetres apart; and
 - (c) in the case of a distinguishing mark painted or displayed on a wheelhouse or deck of a vessel, is to be painted or displayed from port to starboard, and from forward to aft, of the boat; and
 - (d) is to be kept unobscured and is to be maintained in a clean condition while the fishing vessel, in respect of which the distinguishing mark is allocated, is specified in a fishing licence (vessel).
- (5) If it is impractical for the distinguishing mark on the wheelhouse or deck of the vessel to be marked in accordance with subrule (4)(b)(ii), the

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 17

Secretary may, by notice in writing, authorise the distinguishing mark to be painted or displayed, as specified in the notice, on the wheelhouse or deck of the vessel.

- (6) The holder of a fishing licence (vessel) must cause the distinguishing mark, allocated under this rule to the fishing vessel specified in the licence, to be painted or displayed in distinct and legible characters –
- (a) on each side of the hull of the fishing vessel, and each auxiliary vessel used in conjunction with the fishing vessel, above the waterline of the vessel; and
 - (b) if the fishing vessel has a wheelhouse or deck, on the topside of that wheelhouse, or deck, so as to be visible from the air.

Penalty: Grade 1 penalty.

17. Auxiliary vessels

- (1) The holder of a fishing licence (vessel) must not use more than 2 auxiliary vessels from the fishing vessel specified in the fishing licence (vessel).

Penalty: Grade 2 penalty.

- (2) The holder of a fishing licence (vessel) must cause the letter “D” to be displayed –
- (a) on each side of the hull of an auxiliary vessel used under the licence; and

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 18

Part 2 – General Provisions

- (b) above or forward of the distinguishing mark painted or displayed on the auxiliary vessel in accordance with rule 16.

Penalty: Grade 2 penalty.

18. Limits, tags and markings

The Minister, by published notice, may determine the following:

- (a) the limits for taking or possessing fish for recreational fishing;
- (b) the manner in which fish containers, receptacles and packages are to be marked, tagged, labelled and notified;
- (c) the type, volume and marking of containers and receptacles containing fish;
- (d) the marking and tagging of fish.

19. Nature of buoys

- (1) A person must not set and use any apparatus that requires being marked with a buoy unless the buoy –
 - (a) at its widest part, has a volume that is able to hold an intact sphere with a diameter of not less than 185 millimetres; and

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 2 – General Provisions

r. 20

- (b) is specifically designed as a buoy; and
- (c) floats on the surface of the water.

Penalty: Grade 1 penalty.

- (2) The holder of an authorisation must not, in State waters, have possession of any device designed to conceal a buoy under the surface of those waters, unless possession of the device is authorised by the Secretary.

Penalty: Grade 2 penalty.

Division 3 – Vessels

20. Vessel length

- (1) A fishing licence (vessel) is to specify the applicable category of vessel length for the vessel in respect of which the licence was issued.
- (2) For the purposes of subrule (1), the categories of vessel lengths are as follows:
 - (a) less than 6 metres;
 - (b) less than 10 metres;
 - (c) less than 20 metres;
 - (d) unlimited.

21. Use of fishing licence (vessel)

Unless otherwise authorised under the Act, a person must not operate under a fishing licence

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 22

Part 2 – General Provisions

(vessel) on a vessel if the length of the vessel does not fall within the category of vessel length specified in the licence.

Penalty: Grade 2 penalty.

22. Use of multiple fishing licence (vessel)

A person must not use more than one fishing licence (vessel) at any one time.

Penalty: Grade 2 penalty.

23. Cancellation of fishing licence (vessel)

A fishing licence (vessel) that is not transferable under the Act is cancelled if –

- (a) the licence holder surrenders the licence;
or
- (b) the licence holder dies.

PART 3 – VESSEL MONITORING

24. Use of vessel monitoring system

The Secretary, by notice in writing to the supervisor of a fishing licence (vessel), may determine that a vessel monitoring system is required to be used by the supervisor while using the licence in a fishery.

25. Fitting of approved automatic location communicator

- (1) The Secretary, by notice in writing served on a supervisor of a fishing licence (vessel), may direct the supervisor to fit an approved automatic location communicator to the vessel specified in the licence before the vessel is used in a fishery, if –
 - (a) the Secretary determines under rule 24 that a vessel monitoring system is required to be used by the holder of the licence in the fishery; or
 - (b) in accordance with the management plan for the fishery, the vessel is required to be fitted with a vessel monitoring system.
- (2) The supervisor of a fishing licence (vessel) directed under subrule (1) to fit an approved automatic location communicator must –
 - (a) comply with the instructions of the Secretary, and the manufacturer of the

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 25

Part 3 – Vessel Monitoring

communicator, relating to the installation, service and use of the communicator; and

- (b) ensure that the approved automatic location communicator is not removed from the vessel without the written approval of the Secretary; and
- (c) ensure that the approved automatic location communicator is operating at all times.

Penalty: Grade 3 penalty.

- (3) For the purposes of subrule (2)(a), if the instructions of the manufacturer are inconsistent with the instructions of the Secretary, the instructions of the Secretary prevail to the extent of the inconsistency.
- (4) For the purposes of these rules, an approved automatic location communicator is not operating if it is unable to be programmed on demand through a communication system that receives and transmits data via satellites.
- (5) A person, other than a fisheries officer acting in that capacity, must not –
 - (a) cause or allow any alteration to the programming of an approved automatic location communicator; or
 - (b) operate a fishing vessel required to be fitted with an approved automatic location communicator without the

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 3 – Vessel Monitoring

r. 26

approved automatic location
communicator operating; or

- (c) cause or allow any interference with the approved automatic location communicator, or its installation, without the written approval of the Secretary.

Penalty: Grade 3 penalty.

26. Effective operation of vessel monitoring system

- (1) If a fishing vessel operated under a fishing licence (vessel) is required to be fitted with an approved automatic location communicator, the supervisor of the fishing licence (vessel) must ensure that all reasonable measures have been taken to ensure that the supervisor is alerted if the communicator fitted to the vessel is not operating.

Penalty: Grade 3 penalty.

- (2) A supervisor of a fishing licence (vessel) who is aware that the approved automatic location communicator, fitted to the vessel operated under the licence, is not operating must ensure that –
- (a) the Secretary is immediately notified that the approved automatic location communicator has ceased to operate; and
- (b) all fishing undertaken from the vessel stops and all apparatus is stowed until the

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 27

Part 3 – Vessel Monitoring

Secretary authorises fishing to continue;
and

- (c) the vessel is taken as soon as practicable
to an approved location.

Penalty: Grade 3 penalty.

27. Irregular position data transmission

- (1) In this rule –

sleep mode, in relation to an approved automatic location communicator on a vessel, means a mode in which the communicator transmits positional data at reduced intervals when the vessel is at an approved location.

- (2) Unless the Secretary otherwise determines in writing, the supervisor of a fishing licence (vessel) may place an approved automatic location communicator, fitted to the vessel operated under the licence, in sleep mode when the vessel is at an approved location in one or more of the following circumstances:

- (a) during any intervals that the Secretary specifies;
- (b) if a vessel monitoring system is also fitted to the vessel as required for a fishery, during a closed season for that fishery unless the vessel monitoring system is required for another fishery that is still open;

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 3 – Vessel Monitoring

r. 28

-
- (c) while the vessel is undergoing maintenance that prevents its use.
- (3) The Secretary may give approval for the supervisor of a fishing licence (vessel) to not operate an approved automatic location communicator, fitted to the vessel operated under the licence, for a specified period of time while the vessel is at an approved location in one of the following circumstances:
- (a) if a vessel monitoring system is also fitted to the vessel as required for a fishery, during a closed season for that fishery unless the vessel monitoring system is required for another fishery that is still open;
 - (b) while the vessel is undergoing maintenance that prevents its use;
 - (c) while the vessel remains at an approved location for more than 14 consecutive days and is not being used for any fishing;
 - (d) in any other circumstance that the Secretary considers appropriate.

28. Exclusion zones for vessels with approved automatic location communicators

- (1) The Secretary, by notice in writing served on the supervisor of a fishing licence (vessel), who is operating under the licence a vessel that is fitted with an approved automatic location

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 28

Part 3 – Vessel Monitoring

communicator, may direct the supervisor to keep the vessel clear of a specified area of State waters –

- (a) if there is a management plan, for the fishery for which the vessel is intended to be used, that provides –
 - (i) for a vessel monitoring system to be used in that fishery; and
 - (ii) that the specified area is closed to fishing under rule 10; or
 - (b) if the specified area is closed to fishing under rule 10; or
 - (c) for any other reason that the Secretary considers appropriate.
- (2) The supervisor of a fishing licence (vessel), to which a notice under subrule (1) applies, must keep the vessel so fitted with a communicator clear of an area specified under subrule (1).
- Penalty: Grade 3 penalty.
- (3) It is a defence in proceedings for an offence against subrule (2) if the defendant establishes that keeping the vessel clear of the specified area is likely to endanger any person or the vessel.

PART 4 – SHELLFISH FISHERY

Division 1 – Scallop spat collection fishery

29. Taking and possessing scallop spat

- (1) Subject to subrule (2), a person must not set a scallop spat collector or take or have possession of scallop spat unless –
- (a) the person is the holder, or supervisor, of a fishing licence (scallop spat collection); and
 - (b) the scallop spat is taken by, or in possession of, the person for the purposes of scallop farming; and
 - (c) the person has the written approval of the Secretary to set scallop spat collectors for that purpose; and
 - (d) the scallop spat is taken in accordance with the written approval of the Secretary.

Penalty: Grade 2 penalty.

- (2) A person may set a scallop spat collector if –
- (a) the scallop spat collector is set within the area of a marine farm lease that relates to a species of scallop; and
 - (b) the marine farming licence relating to that area authorises the farming of that species of scallop.

30. Authority of fishing licence (scallop spat collection)

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

- (a) set scallop spat collectors in State waters specified by the Secretary; and
- (b) take or have possession of scallop spat.

31. Selling and buying scallop spat

- (1) A person must not sell or give scallop spat to a person who is not the holder of a marine farming licence in respect of scallop farming.

Penalty: Grade 2 penalty.

- (2) A person must not buy or receive scallop spat from a person who is not –
 - (a) the holder of a marine farming licence in respect of scallop farming; or
 - (b) the holder, or supervisor, of a fishing licence (scallop spat collection).

Penalty: Grade 2 penalty.

Division 2 – Mussel spat collection fishery

32. Taking and possessing mussel spat

- (1) Subject to subrule (2), a person must not set a mussel spat collector or take or have possession of mussel spat unless –

Fisheries Rules 2019
Statutory Rules 2019, No. 67

Part 4 – Shellfish Fishery

r. 33

-
- (a) the person is the holder, or supervisor, of a fishing licence (mussel spat collection); and
 - (b) the mussel spat is taken by, or in possession of, the person for the purposes of mussel farming; and
 - (c) the person has the written approval of the Secretary to set mussel spat collectors for that purpose; and
 - (d) the mussel spat is taken in accordance with the written approval of the Secretary.

Penalty: Grade 2 penalty.

- (2) A person may set a mussel spat collector if –
 - (a) the mussel spat collector is set within the area of a marine farm lease that relates to a species of mussel; and
 - (b) the marine farming licence relating to that area authorises the farming of that species of mussel.

33. Authority of fishing licence (mussel spat collection)

A fishing licence (mussel spat collection) only authorises the holder to –

- (a) set mussel spat collectors in State waters specified by the Secretary; and
- (b) take or have possession of mussel spat.

Fisheries Rules 2019
Statutory Rules 2019, No. 67

r. 34

Part 4 – Shellfish Fishery

34. Selling and buying mussel spat

- (1) A person must not sell or give mussel spat to a person who is not the holder of a marine farming licence in respect of mussel farming.

Penalty: Grade 2 penalty.

- (2) A person must not buy or receive mussel spat from a person who is not –

- (a) the holder of a marine farming licence in respect of mussel farming; or
- (b) the holder, or supervisor, of a fishing licence (mussel spat collection).

Penalty: Grade 2 penalty.

PART 5 – MISCELLANEOUS

35. Taking Undaria

A person must not take Undaria, for non-commercial purposes, unless that person is acting in accordance with an authorisation.

Penalty: Grade 2 penalty.

36. Infringement notices 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 4 is a prescribed offence; and
- (b) the penalty specified in column 3 of that Schedule opposite that offence is the prescribed penalty for that offence.

37. Transitional provision

A public notice made under the *Fisheries Rules 2009*, as in force and effect immediately before the commencement of these rules, is taken to be a published notice, on the same terms and conditions, under and for the purposes of these rules, until the first of the following occurs:

- (a) the notice is rescinded;
- (b) the notice is spent in its application.

SCHEDULE 1 – KENT GROUP NATIONAL PARK

Rule 12

PART 1 – RESTRICTED TAKE ZONE

The restricted take zone for the Kent Group National Park is the area of water comprising approximately 15 048 hectares, shown as Lot 1 with coordinates expressed using Geocentric Datum of Australia and bounded by a heavy black line on Plan 6481 in the Central Plan Register, a reduced copy of which is set out, by way of illustration only, in Part 2 of this Schedule.

sch. 1

[illegible]

SCHEDULE 2 – SOUTHWEST NATIONAL PARK

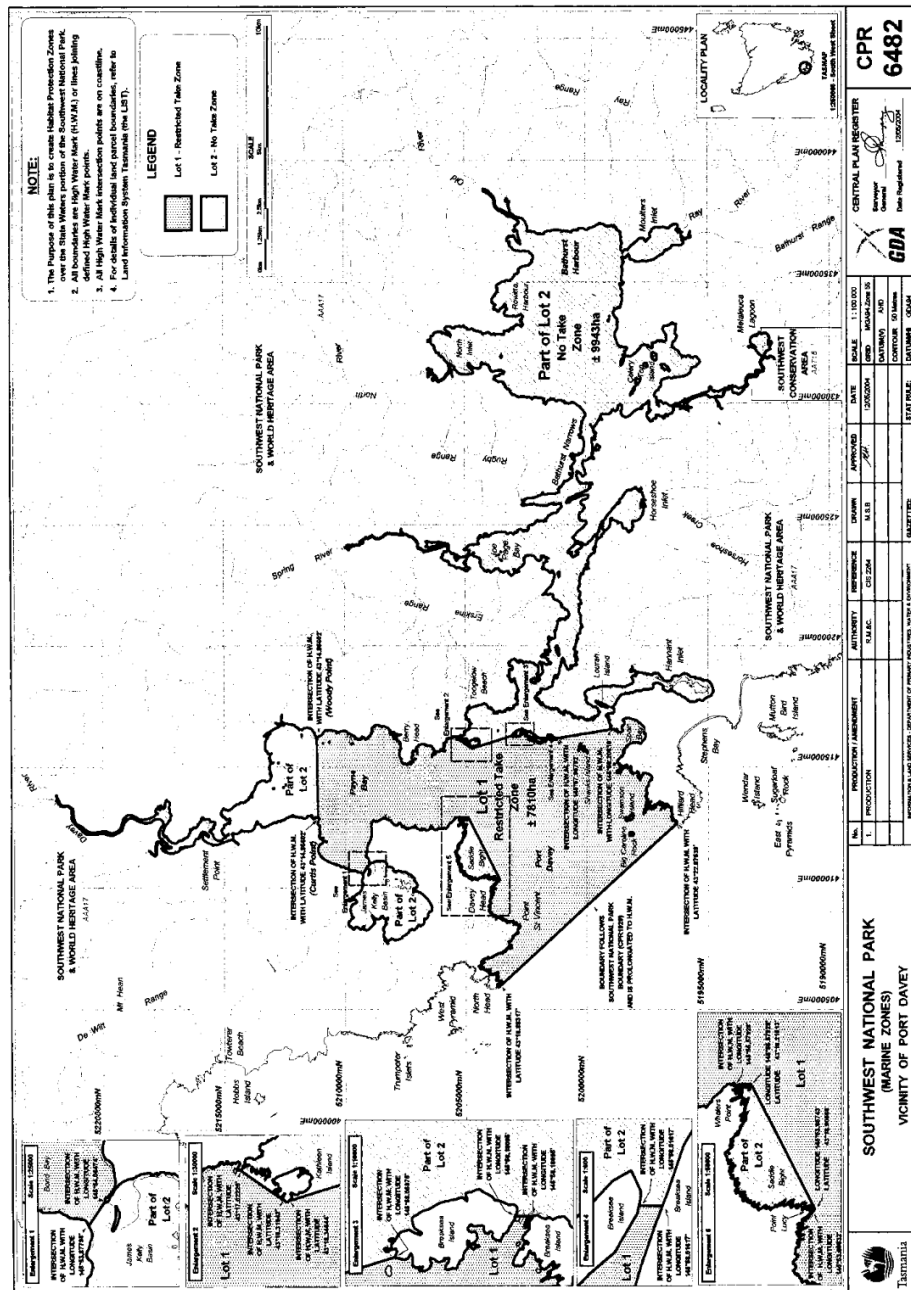
Rule 12

PART 1 – RESTRICTED TAKE ZONE

The restricted take zone for the Southwest National Park is the area of water comprising approximately 7 810 hectares, shown as Lot 1 with coordinates expressed using Geocentric Datum of Australia and bounded by a heavy black line on Plan 6482 in the Central Plan Register, a reduced copy of which is set out, by way of illustration only, in Part 2 of this Schedule.

sch. 2

PART 2 – PLAN



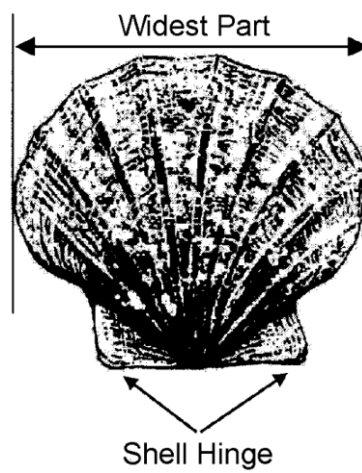
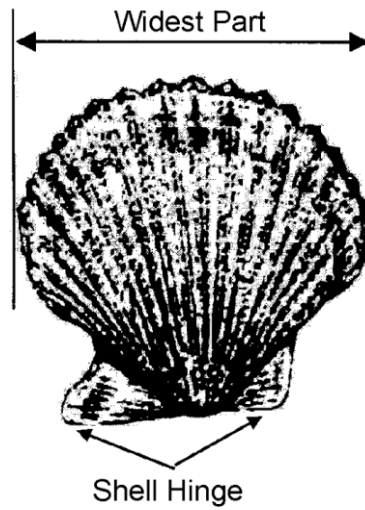
SCHEDULE 3 – SCALLOP SPAT

Rule 3

PART 1 – MEANING OF WIDEST PART OF SCALLOP

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

PART 2 – MEASUREMENTS



Fisheries Rules 2019
Statutory Rules 2019, No. 67

sch. 4

SCHEDULE 4 – INFRINGEMENT NOTICES

Rule 36

	Rule	Penalty Units
1.	Rule 5(1)	5
2.	Rule 5(5)	10
3.	Rule 6(1)	10
4.	Rule 8	5
5.	Rule 9(1)	10
6.	Rule 10(2)	10
7.	Rule 10(3)	10
8.	Rule 11(1)	10
9.	Rule 11(2)	10
10.	Rule 12(2)	10
11.	Rule 13(1)	5
12.	Rule 13(4)	5
13.	Rule 14(1)	5
14.	Rule 14(2)	3
15.	Rule 15(1)	10
16.	Rule 16(6)	2
17.	Rule 17(1)	10
18.	Rule 17(2)	2

Fisheries Rules 2019
Statutory Rules 2019, No. 67

sch. 4

	Rule	Penalty Units
19.	Rule 19(1)	1
20.	Rule 19(2)	5
21.	Rule 21	5
22.	Rule 22	5
23.	Rule 25(2)	5
24.	Rule 25(5)	5
25.	Rule 26(1)	5
26.	Rule 26(2)	5
27.	Rule 28(2)	5
28.	Rule 29(1)	3
29.	Rule 31(1)	3
30.	Rule 31(2)	3
31.	Rule 32(1)	3
32.	Rule 34(1)	3
33.	Rule 34(2)	3
34.	Rule 35	3

Fisheries Rules 2019
Statutory Rules 2019, No. 67

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

Notified in the *Gazette* on 20 November 2019.

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

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

These rules provide for –

- (a) the management of fisheries in State waters; and
- (b) licences for those fisheries; and
- (c) reporting and other requirements relating to those fisheries.