

TASMANIA

**FISHERIES (SCALLOP) AMENDMENT RULES
2025**

STATUTORY RULES 2025, No. 10

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FISHERIES (SCALLOP) AMENDMENT RULES 2025

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

Dated 4 April 2025.

ERIC ABETZ
Minister for Business, Industry and Resources

1. Short title

These rules may be cited as the *Fisheries (Scallop) Amendment Rules 2025*.

2. Commencement

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

3. Principal Rules

In these rules, the *Fisheries (Scallop) Rules 2020** are referred to as the Principal Rules.

4. Rule 3 amended (Interpretation)

Rule 3 of the Principal Rules is amended as follows:

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- (a) by inserting the following definitions after the definition of *D'Entrecasteaux Channel* in subrule (1):

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

- (a) commences when the vessel being used for the fishing trip departs from a public wharf or authorised mooring; and
- (b) ends when the vessel returns to a public wharf or authorised mooring;

fish merchant means –

- (a) the holder, or supervisor, of any licence other than a recreational fishing licence; or
- (b) a person who sells fish;

- (b) by inserting the following definition after the definition of *Grade 3 penalty* in subrule (1):

holder of a fishing licence includes, except in rule 36, a person who has approval to use the licence under section 87(2) of the Act;

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- (c) by inserting “published” after “by” in paragraph (b) of the definition of *immediate proximity* in subrule (1);
- (d) by inserting the following definition after the definition of *minimum size* in subrule (1):

non-commercial fishing trip means a trip on a vessel where the only persons to take, or intending to take, scallops during the trip are persons taking scallops for a non-commercial purpose;

- (e) by omitting the definition of *notice* from subrule (1);
- (f) by inserting the following definition after the definition of *processing premises* in subrule (1):

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

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

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- (c) published in a newspaper circulating generally in the State;
- (g) by inserting the following definition after the definition of *scallop quota docket* in subrule (1):
 - scallop quota docket and catch record book* means the book of scallop quota docket and catch records most recently issued by the Secretary to a licence holder for the purposes of the Act;
- (h) by omitting subrules (3) and (4).

5. Rule 6 amended (Consultation arrangements)

Rule 6 of the Principal Rules is amended by omitting “appropriate” and substituting “relevant”.

6. Rule 9 amended (Taking scallops smaller than minimum size)

Rule 9(b) of the Principal Rules is amended by inserting “, has taken the scallops with a scallop dredge,” after “(scallop)”.

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7. Rule 10 amended (Possessing scallops smaller than minimum size)

Rule 10(b) of the Principal Rules is amended by inserting “, has taken the scallops with a scallop dredge,” after “(scallop)”.

8. Rule 11 amended (Closed and open seasons for non-commercial scallop fishery)

Rule 11(2) of the Principal Rules is amended by inserting “published” after “by”.

9. Rule 12 amended (Closed and open areas for non-commercial scallop fishery other than D’Entrecasteaux Channel)

Rule 12(1) of the Principal Rules is amended by inserting “published” after “by”.

10. Rule 13 amended (Opening and closure of D’Entrecasteaux Channel)

Rule 13(2) of the Principal Rules is amended by inserting “published” after “by”.

11. Rule 15 amended (Maximum amount of scallops for non-commercial scallop fishery)

Rule 15 of the Principal Rules is amended as follows:

- (a) by inserting in subrule (1) “published” after “by”;

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- (b) by omitting from subrule (2) “A” and substituting “Subject to rule 15A, a”.

12. Rule 15A inserted

After rule 15 of the Principal Rules, the following rule is inserted in Division 2:

15A. Catch-sharing in non-commercial scallop fishery

- (1) In this rule –

non-commercial scallop fisher
means –

- (a) the holder of a fishing licence (recreational scallop); or
- (b) an Aborigine engaging in an Aboriginal activity.
- (2) Rule 15(2) does not apply to a person taking, in an area of State waters, more than the amount of scallops specified under rule 15 for that area of State waters (*excess scallops*), if –
- (a) the excess scallops are taken during a non-commercial fishing trip in the non-commercial scallop fishery; and
- (b) the person is one of two or more non-commercial scallop fishers on the trip; and

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- (c) the excess scallops are given to –
- (i) one non-commercial scallop fisher per non-commercial fishing trip who is present on the trip but does not, during the trip, take any scallops; or
 - (ii) a non-commercial scallop fisher who is present on the non-commercial fishing trip but has not, during that trip, taken the whole of the amount of scallops specified under rule 15 in respect of that fisher –

provided that at no stage the giving of the excess scallops results in any person possessing more than the amount of scallops specified under rule 15; and

- (d) at no stage does the amount of scallops taken, on a non-commercial fishing trip, exceed the lesser of the following amounts:
- (i) 5 times the amount of scallops specified under rule 15 for that area of State waters;

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- (ii) the sum of the amount of scallops specified under rule 15 for that area of State waters multiplied by the number of non-commercial scallop fishers present on the trip.
- (3) For the avoidance of doubt, nothing in subrule (2) authorises a non-commercial scallop fisher to, in any one day, receive or be in possession of more than the amount of scallops specified under rule 15 for the area of State waters where the non-commercial fishing trip specified in subrule (2) occurs.
- (4) A person in charge of a vessel used for a non-commercial fishing trip in the non-commercial scallop fishery, must ensure that, at any time, there are no more scallops, on that vessel during the trip, than the amount of scallops specified under subrule (2)(d).

Penalty: Grade 3 penalty.

13. Rule 18 amended (Closed and open seasons for commercial scallop fishery)

Rule 18 of the Principal Rules is amended by inserting “published” after “by”.

14. Rule 19 amended (Closed and open areas for commercial scallop fishery)

Rule 19 of the Principal Rules is amended as follows:

- (a) by inserting in subrule (1) “published” after “by”;
- (b) by inserting in subrule (4) “published” after “by”.

15. Rule 26 amended (Overcatch provisions)

Rule 26(2) of the Principal Rules is amended by omitting “Minister” first occurring and substituting “Secretary”.

16. Rule 27 amended (Scallop survey period)

Rule 27 of the Principal Rules is amended as follows:

- (a) by inserting in subrule (1) “published” after “by”;
- (b) by inserting in subrule (1) “published” after “in the”;
- (c) by inserting in subrule (2) “published” after “in the”;
- (d) by inserting in subrule (3) “published” after “specified in the”.

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17. Rule 33 amended (Transferring licence)

Rule 33 of the Principal Rules is amended as follows:

- (a) by omitting from subrule (2) “Minister” and substituting “Secretary”;
- (b) by omitting from subrule (3) “Minister” and substituting “Secretary”.

18. Rule 35 amended (Transferring units)

Rule 35 of the Principal Rules is amended as follows:

- (a) by omitting from subrule (1) “Minister” and substituting “Secretary”;
- (b) by omitting from subrule (2) “Minister’s” and substituting “Secretary’s”;
- (c) by omitting from subrule (3) “Minister” and substituting “Secretary”;
- (d) by omitting from subrule (4) “Minister” first occurring and substituting “Secretary”;
- (e) by omitting from subrule (4)(b) “Minister” and substituting “Secretary”;
- (f) by omitting from subrule (6) “Minister” and substituting “Secretary”.

19. Rule 36 amended (Minimum and maximum holdings)

Rule 36(5) of the Principal Rules is amended by omitting “Minister” and substituting “Secretary”.

20. Rule 39 amended (Possessing scallop dredges)

Rule 39(1) of the Principal Rules is amended as follows:

- (a) by omitting from paragraph (c) “vessel.” and substituting “vessel; or”;
- (b) by inserting the following paragraph after paragraph (c):
 - (d) acting in accordance with a written authorisation from MAST in relation to the deployment or use of a scallop dredge for the purpose of promoting a navigable channel.

21. Rule 54 amended (Scallop quota docket)

Rule 54(1) of the Principal Rules is amended by inserting “in accordance with the instructions in the scallop quota docket and catch record book” after “docket”.

22. Rule 57 amended (Scallop processor returns)

Rule 57(2) of the Principal Rules is amended by omitting “7 days” and substituting “48 hours”.

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23. Rule 58 amended (Scallop catch records)

Rule 58 of the Principal Rules is amended by omitting subrule (2) and substituting the following subrule:

- (2) The holder of a fishing licence (scallop) must complete the scallop catch record section of the scallop quota docket –
 - (a) in accordance with the instructions in the scallop quota docket and catch record book; and
 - (b) on each day during which fishing occurs.

Penalty: Grade 2 penalty.

24. Rule 66 substituted

Rule 66 of the Principal Rules is rescinded and the following rule is substituted:

66. Presumption as to taking or possession of certain scallops

- (1) For the purposes of these rules, and any proceedings for offences under these rules, a scallop is presumed to have been taken by a person, and be in the possession of the person, if –
 - (a) the scallop is in the general vicinity of the person; and

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- (b) the person has the means to have taken, or aided or enabled the taking of, the scallop; and
 - (c) no other person has claimed to have taken, or to have possession, of the scallop.
- (2) Subrule (1) may apply to one or more persons in respect of the same scallop.

25. Schedule 4 amended (Scallop measurements)

Schedule 4 to the Principal Rules is amended by inserting in clause 1 of Part 1 “published” after “by”.

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

Notified in the *Gazette* on 9 April 2025.

These rules are administered in the Department of Natural Resources and Environment Tasmania.

EXPLANATORY NOTE

(This note is not part of the rules)

These rules amend the *Fisheries (Scallop) Rules 2020* by –

- (a) providing for ‘catch sharing’ in certain circumstances in the recreational scallop fishery; and
- (b) clarifying the minimum size limit rule in relation to scallops taken by dredge; and
- (c) allowing a person without a fishing licence (scallop) to be in possession of a scallop dredge in certain authorised circumstances; and
- (d) updating certain provisions relating to the person responsible for exercising certain powers and performing certain functions, and the requirements for record keeping, consequential on the amendments made to the *Living Marine Resources Management Act 1995* by the *Living Marine Miscellaneous*

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Amendments (Digital Processes) Act
2021; and

- (e) making other minor revisions to the rules.