

South Australia

Fisheries Management (Abalone Fisheries) Regulations 2017

under the *Fisheries Management Act 2007*

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Legislative history

1—Short title

These regulations may be cited as the *Fisheries Management (Abalone Fisheries) Regulations 2017*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—
abalone fishery means—
 - (a) the Central Zone Abalone Fishery; or
 - (b) the Southern Zone Abalone Fishery; or
 - (c) the Western Zone Abalone Fishery,

constituted by these regulations;

Act means the *Fisheries Management Act 2007*;

Blacklip Abalone means *Haliotis rubra*;

Central Zone means the waters adjacent to South Australia between the meridians of longitude 136°30' East and 139° East, but does not include the waters of the Coorong or any other waters inside the Murray Mouth;

conversion value means the number determined by the Minister to be the conversion value for the purpose of calculating the weight of abalone meat before removal from the shell;

Corporations Act means the *Corporations Act 2001* of the Commonwealth;

current company extract means a document prepared by the Australian Securities and Investment Commission from its national database kept under the Corporations Act that contains current details of the following in relation to a company:

- (a) the company's name;
- (b) the address of the company's registered office;
- (c) the date of registration of the company;
- (d) the State or Territory in which the company is taken to be registered under the Corporations Act;
- (e) the company's Australian Company Number;
- (f) whether the company is a proprietary company or a public company;
- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

Department means the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the Act;

Greenlip Abalone means *Haliotis laevis*;

Mean High Water Springs means the line representing the average of all high water observations at the time of spring tide over a period of 19 years;

meat, in relation to an abalone, means all the muscular foot of the abalone from which the viscera have been detached by the usual shucking procedure;

Southern Zone means the waters adjacent to South Australia east of the meridian of longitude 139° East;

Western Zone means the waters adjacent to South Australia west of the meridian of longitude 136°30' East;

whole, in relation to an abalone, means the whole of the abalone including the meat, viscera and shell.

- (2) In these regulations, unless the contrary intention appears, *company*, *director*, *proprietary company* and *public company* have the same respective meanings as in the Corporations Act.

- (3) In these regulations—
- (a) all lines in spatial descriptions are geodesics based on the Geocentric Datum of Australia 2020 (**GDA2020**) as defined in the determination under section 8A of the *National Measurement Act 1960* of the Commonwealth for the recognised-value standard of measurement position, and all coordinates are expressed in terms of GDA2020;
 - (b) common and scientific fish names are given according to AS 5300—2015 *Australian Fish Names Standard* published by Standards Australia, as in force from time to time;
 - (c) a reference to the **taking of abalone** includes a reference to an act preparatory to, or involved in, the taking of abalone.
- (4) In these regulations, a reference to a class of abalone is a reference to a class of abalone determined by the Minister by reference to all or any of the following factors:
- (a) a species of abalone; or
 - (b) a description of abalone by reference to sex, size, weight or any other characteristic.

4—Conversion of whole weight to meat weight

For the purposes of these regulations, the weight of abalone meat before removal from the shell is to be determined by multiplying the number of kilograms in the weight of the whole abalone by the conversion value determined by the Minister for the time being.

5—Constitution of fisheries

- (1) The following fisheries are constituted:
- (a) the Central Zone Abalone Fishery;
 - (b) the Southern Zone Abalone Fishery;
 - (c) the Western Zone Abalone Fishery.
- (2) The Central Zone Abalone Fishery consists of the taking of abalone in the waters of the Central Zone.
- (3) The Southern Zone Abalone Fishery consists of the taking of abalone in the waters of the Southern Zone.
- (4) The Western Zone Abalone Fishery consists of the taking of abalone in the waters of the Western Zone.

6—Maximum number of licences that may be in force

- (1) The maximum number of licences that may be in force in respect of the Central Zone Abalone Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (2) The maximum number of licences that may be in force in respect of the Southern Zone Abalone Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

- (3) The maximum number of licences that may be in force in respect of the Western Zone Abalone Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

7—Transfer of licence

- (1) Licences in respect of an abalone fishery are transferable.
- (2) An application for consent to the transfer of a licence must be accompanied by—
- (a) the licence to be transferred; and
 - (b) a form of return as required by regulation 17 completed by the holder of the licence up to the date of application; and
 - (c) if the transferee is a company—a current company extract relating to the transferee issued not more than 1 month immediately preceding the date of application.
- (3) The Minister may only consent to the transfer of a licence if satisfied as to the following:
- (a) that any fees or other amounts payable in relation to the licence under the Act have been paid in full;
 - (b) that the licence to be transferred has not been suspended;
 - (c) that no proceedings alleging an offence against the Act are pending or likely to be commenced in the State against the holder of the licence;
 - (d) if the transferee is a natural person, that the transferee is at least 15 years of age and is a fit and proper person to hold a licence in respect of an abalone fishery;
 - (e) if the transferee is a company, that each director of the company is a fit and proper person to be a director of a company that holds a licence in respect of an abalone fishery;
 - (f) if a boat registered for use under the licence is the subject of, or registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under a law of the Commonwealth or a corresponding law—
 - (i) that the entitlement is either to be transferred together with the licence to the transferee or to be surrendered on or before the transfer of the licence; or
 - (ii) that—
 - (A) the transfer of the licence separately from the entitlement is not likely to result in fishing activities that over-exploit or endanger the aquatic resources of the State; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

8—Registration

An application by the holder of a licence in respect of an abalone fishery—

- (a) to register a boat or device for use under the licence; or

(b) to register a person as a master of a boat that may be used under the licence, must be accompanied by the documents specified in the application form.

9—Revocation of registration

- (1) The Minister may, on application by the holder of a licence in respect of an abalone fishery, revoke the registration of—
 - (a) a boat or device used under the licence; or
 - (b) a person as a master of a boat that may be used under the licence.
- (2) An application for revocation of registration must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the documents specified in the application form.

10—Individual catch quota system—Central Zone

- (1) In this regulation—

abalone quota entitlement or *quota entitlement*, in relation to a licence in respect of the fishery and a class of abalone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence during a quota period, being the product of—

- (a) the unit entitlement under the licence in respect of that class of abalone; and
- (b) the unit value for the fishery and that class of abalone and quota period,

subject to any variation applying during that quota period;

fishery means the Central Zone Abalone Fishery;

following quota period, in relation to a first quota period and the holder of a licence in respect of the fishery, means the next quota period during which abalone may be taken by the holder of the licence following the first quota period;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 January;

quota period 2020 means the quota period ending on 31 December 2020;

quota period 2021 means the quota period ending on 31 December 2021;

quota period 2022 means the quota period ending on 31 December 2022;

quota period 2023 means the quota period ending on 31 December 2023;

quota period 2024 means the quota period ending on 31 December 2024;

quota period 2025 means the quota period ending on 31 December 2025;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone;

unit value means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for the fishery, a class of abalone and a quota period.

- (2) The Minister—
- (a) must determine—
 - (i) the number of kilograms of abalone meat that is to be the value of an abalone unit for the fishery, a class of abalone and each quota period; and
 - (ii) the conversion value for the fishery and a class of abalone;
 - (b) may, from time to time, vary the conversion value for the fishery and a class of abalone.
- (3) The Minister may vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:
- (aa) if—
 - (i) the total catch of abalone of a particular class taken by holders of licences in respect of the fishery during the quota period 2020 falls short of the total allowable catch of abalone of that particular class for the fishery and that quota period; and
 - (ii) the total catch of abalone of that class taken by at least 1 holder of a licence in respect of the fishery during the quota period 2020 falls short of the quota entitlement under that licence in respect of that class of abalone and that quota period by an amount exceeding 50 kilograms of abalone meat,

the Minister may vary the conditions of all licences in respect of the fishery so as to increase the quota entitlements under the licences in respect of that class of abalone for the quota periods 2021, 2022, 2023, 2024 and 2025 by the same number of abalone units;
 - (a) on joint application made to the Minister by the holders of any 2 licences, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of a particular class of abalone and decrease the unit entitlement under the other licence in respect of that class of abalone by a corresponding number of units;
 - (b) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the *first quota period*) (being a quota period that commenced on or after 1 January 2022) is less than the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement in respect of that class of abalone for the following quota period (the *subsequent quota period*) by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the abalone quota entitlement for the first quota period up to—
 - (i) —
 - (A) 10% of the quota entitlement for the first quota period; or

- (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the subsequent quota period; or
 - (ii) if the Minister is satisfied that exceptional circumstances apply—
 - (A) a percentage that exceeds 10% of the quota entitlement for the first quota period; or
 - (B) such other greater kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the subsequent quota period;
- (c) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the **first quota period**) (being a quota period that commences on or after 1 January 2023) exceeded the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement in respect of that class of abalone for the following quota period (the **subsequent quota period**) as follows:
 - (i) if the catch exceeded the quota entitlement by—
 - (A) an amount not exceeding 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,

by 1 kilogram of abalone meat for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by—
 - (A) an amount greater than 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,

by 2 kilograms of abalone meat for each kilogram taken in excess of the quota entitlement.
- (e) if—
 - (i) the holder of a licence has assisted in the carrying out of research work under the Act in relation to the fishery; and
 - (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,

the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;

- (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than under paragraph (a)) must be expressed to apply only for the quota period during which the variation is made.

(4) For the purposes of—

- (a) subregulation (3)(b)(i) and (ii); and
- (b) subregulation (3)(c)(i) and (ii),

the following must be disregarded:

- (c) any increase in the quota entitlement under a licence applying during a first quota period as a result of a variation of the quota entitlement under the licence made under subregulation (3)(aa);
- (d) any increase in the quota entitlement under a licence applying during a first quota period as a result of—
 - (i) a variation of the quota entitlement under the licence previously made under subregulation (3)(b)(i) or (ii); and
 - (ii) in the case of the quota period that ends on 31 December 2022—a variation of the quota entitlement under the licence made under subregulation (3)(d)(i) as in force immediately before the commencement of this paragraph.

(4a) An application under subregulation (3)(a) may not be made in respect of abalone units allocated to the licence under subregulation (3)(b).

(5) An application to vary unit entitlements must—

- (a) be made in a manner and form approved by the Minister; and
- (b) be completed in accordance with the instructions contained in the form; and
- (c) be accompanied by the prescribed fee.

(6) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone of any class if the unit entitlement under the licence in respect of either class of abalone specified in column 1 of the following table falls below the number specified alongside in column 2.

Maximum penalty: \$5 000.

Expiation fee: \$500.

Column 1	Column 2
Class of abalone	Unit entitlement
Blacklip Abalone	25
Greenlip Abalone	25

- (7) For the purposes of subregulation (6), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

11—Individual catch quota system—Southern Zone

- (1) In this regulation—

abalone quota entitlement or ***quota entitlement***, in relation to a licence in respect of the fishery and a class of abalone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence during a quota period, being the product of—

- (a) the unit entitlement under the licence in respect of that class of abalone; and
- (b) the unit value for that class of abalone and quota period,

subject to any variation applying during that quota period;

fishery means the Southern Zone Abalone Fishery;

quota period—a quota period for the fishery is—

- (a) the period commencing on 1 October 2022 and ending on 31 August 2023; or
- (b) the period of 12 months commencing on 1 September 2023 or on 1 September in any subsequent year;

quota period 2019-2020 means the quota period that ended on 30 September 2020;

quota period 2020-2021 means the quota period ending on 30 September 2021;

quota period 2021-2022 means the quota period ending on 30 September 2022;

quota period 2022-2023 means the quota period ending on 31 August 2023;

unit entitlement means the number of abalone units for the time being allocated to a licence in respect of the fishery in respect of a class of abalone;

unit value means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for a class of abalone and a quota period.

- (2) The Minister—

- (a) must determine—
 - (i) the number of kilograms of abalone meat that is to be the value of an abalone unit for a class of abalone and each quota period; and
 - (ii) the conversion value for a class of abalone; and
- (b) may, from time to time, vary the conversion value for a class of abalone.

- (3) The Minister may impose or vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences, the conditions of those licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of a particular class of abalone and decrease the unit entitlement under the other licence in respect of that class of abalone by a corresponding number of units;
 - (b) if the total catch of abalone of a particular class taken by the holder of a licence during a quota period exceeded the abalone quota entitlement under the licence in respect of that class of abalone and quota period, the Minister may vary the conditions of the licence so as to decrease the quota entitlement in respect of that class of abalone—
 - (i) if the catch exceeded the quota entitlement by not more than 50 kilograms of abalone meat—by 1 kilogram for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by more than 50 kilograms but not more than 100 kilograms of abalone meat—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
 - (c) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing an abalone quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 100 kilograms of abalone meat in excess of the quota entitlement,the conditions of the licence may be varied so as to decrease the abalone quota entitlement under the licence in respect of the class of abalone that was taken for 3 quota periods following the conviction by 1 kilogram for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed;
 - (d) if the total catch of abalone of a particular class taken by the holder of a licence during a quota period is less than the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the Minister may vary the conditions of the licence so as to—
 - (i) increase the quota entitlement in respect of that class of abalone by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the quota entitlement (but in any case by not more than 50 kilograms); and
 - (ii) prohibit any additional abalone units allocated to the licence as a result of the increase in the quota entitlement made under subparagraph (i) from being transferred to another licence; and

- (iii) in addition to any increase in the quota entitlement made under subparagraph (i), if the total catch of abalone of a particular class taken during the quota period 2019-2020 fell short of the quota entitlement for that quota period by an amount exceeding 50 kilograms of abalone meat—increase the quota entitlement in respect of that class of abalone for the quota periods 2020-2021, 2021-2022 and 2022-2023 by up to 1 kilogram of abalone meat for each kilogram above 50 kilograms by which the total catch fell short of the quota entitlement for the quota period 2019-2020;
 - (e) if—
 - (i) the holder of a licence has assisted in the carrying out of research work under the Act in relation to the fishery; and
 - (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,
the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;
 - (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (a) or (c)) must be expressed to apply only for the quota period during which the variation is made.
- (3a) In determining whether to vary the conditions of a licence under subregulation (3)(d)(iii) so as to increase the abalone quota entitlement under the licence in respect of a particular class of abalone and the quota period 2021-2022 or 2022-2023, the Minister must take into account—
 - (a) the total catch of abalone of that class taken by the holder of the licence during the quota period 2020-2021 or 2021-2022 (as the case requires); and
 - (b) any increase in the abalone quota entitlement under the licence in respect of that class of abalone for the quota period 2020-2021 or 2021-2022 (as the case requires) under subregulation (3)(d)(iii).
- (4) For the purposes of subregulation (3)(d), in determining whether the total catch of abalone during a particular quota period was less than the abalone quota entitlement under the licence in respect of that quota period, any increase in the quota entitlement applying during that period as a result of a variation made under that subregulation must be disregarded.
- (5) An application to vary unit entitlements must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the prescribed fee.

- (6) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone of any class if the unit entitlement under the licence in respect of either class of abalone specified in column 1 of the following table falls below the number specified alongside in column 2.

Maximum penalty: \$5 000.

Expiation fee: \$500.

Column 1	Column 2
Class of abalone	Unit entitlement
Blacklip Abalone	100
Greenlip Abalone	5

- (7) For the purposes of subregulation (6), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

12—Individual catch quota system—Western Zone

- (1) In this regulation—

abalone quota entitlement or ***quota entitlement***, in relation to a licence in respect of the fishery and a class of abalone, means the maximum number of kilograms of meat of abalone of that class that may be lawfully taken by the holder of the licence during a quota period, being the product of—

- (a) the unit entitlement under the licence in respect of that class of abalone; and
- (b) the unit value for that class of abalone and quota period,

subject to any variation applying during that quota period;

fishery means the Western Zone Abalone Fishery;

following quota period, in relation to a first quota period and the holder of a licence in respect of the fishery, means the next quota period during which abalone may be taken by the holder of the licence following the first quota period;

quota period—a quota period for the fishery is a period of 12 months commencing on 1 January;

quota period 2020 means the quota period ending on 31 December 2020;

quota period 2021 means the quota period ending on 31 December 2021;

quota period 2022 means the quota period ending on 31 December 2022;

quota period 2023 means the quota period ending on 31 December 2023;

unit entitlement, in relation to a licence in respect of the fishery and a class of abalone, means the number of abalone units for the time being allocated to the licence in respect of that class of abalone;

unit value means the number of kilograms of abalone meat determined by the Minister to be the value of an abalone unit for a class of abalone and a quota period.

- (2) The Minister—
- (a) must determine—
 - (i) the number of kilograms of abalone meat that is to be the value of an abalone unit for a class of abalone and each quota period; and
 - (ii) the conversion value for a class of abalone; and
 - (b) may from time to time vary the conversion value for a class of abalone.
- (3) The Minister may impose or vary conditions on licences in respect of the fishery fixing abalone quota entitlements as follows:
- (a) on joint application made to the Minister by the holders of any 2 licences subject to conditions fixing abalone quota entitlements in respect of the same class of abalone, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences in respect of that class of abalone and decrease the unit entitlement under the other licence in respect of that class of abalone by a corresponding number of units;
 - (b) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery during the quota period 2020 fell short of the quota entitlement in respect of that class of abalone and that quota period by an amount exceeding 50 kilograms of abalone meat, the Minister may vary the conditions of the licence so as to increase the quota entitlement in respect of that class of abalone for the quota periods 2021, 2022 and 2023 by up to 1 kilogram of abalone meat for each kilogram above 50 kilograms by which the total catch fell short of the quota entitlement for the quota period 2020;
 - (c) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the **first quota period**) (being a quota period that commenced on or after 1 January 2022) is less than the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement in respect of that class of abalone for the following quota period (the **subsequent quota period**) by 1 kilogram of abalone meat for each kilogram by which the catch fell short of the abalone quota entitlement for the first quota period up to—
 - (i) —
 - (A) 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the subsequent quota period; or
 - (ii) if the Minister is satisfied that exceptional circumstances apply—
 - (A) a percentage that exceeds 10% of the quota entitlement for the first quota period; or
 - (B) such other greater kilogram amount of abalone meat,

as is determined by the Minister on or before the commencement of the subsequent quota period;

- (d) if the total catch of abalone of a particular class taken by the holder of a licence in respect of the fishery subject to a condition fixing an abalone quota entitlement during a quota period (the *first quota period*) (being a quota period that commences on or after 1 January 2023) exceeded the abalone quota entitlement under the licence in respect of that class of abalone and that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement in respect of that class of abalone for the following quota period (the *subsequent quota period*) as follows:
- (i) if the catch exceeded the quota entitlement by—
 - (A) an amount not exceeding 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,by 1 kilogram of abalone meat for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by—
 - (A) an amount greater than 10% of the quota entitlement for the first quota period; or
 - (B) such lower percentage of the quota entitlement for the first quota period, or such other lower kilogram amount of abalone meat, as is determined by the Minister on or before the commencement of the first quota period,by 2 kilograms of abalone meat for each kilogram taken in excess of the quota entitlement;
- (e) if—
- (i) the holder of a licence has assisted in the carrying out of research work under the Act in relation to the fishery; and
 - (ii) the Minister considers that it is appropriate to compensate or reward the holder of the licence for the time spent in providing that assistance,
- the Minister may vary the conditions of the licence so as to increase the abalone quota entitlement under the licence;
- (f) a variation of a quota entitlement or unit entitlement under this subregulation (other than paragraph (a)) must be expressed to apply only for the quota period during which the variation is made.

- (3a) In determining whether to vary the conditions of a licence under subregulation (3)(b) so as to increase the abalone quota entitlement under the licence in respect of a particular class of abalone and the quota period 2022 or 2023, the Minister must take into account—
- (a) the total catch of abalone of that class taken by the holder of the licence during the quota period 2021 or 2022 (as the case requires); and
 - (b) any increase in the abalone quota entitlement under the licence in respect of that class of abalone for the quota period 2021 or 2022 (as the case requires) under subregulation (3)(b).
- (4) For the purposes of—
- (a) subregulation (3)(c)(i) and (ii); and
 - (b) subregulation (3)(d)(i) and (ii),
- the following must be disregarded:
- (c) any increase in the quota entitlement under a licence applying during a first quota period as a result of a variation of the quota entitlement under the licence made under subregulation (3)(b);
 - (d) any increase in the quota entitlement under a licence applying during a first quota period as a result of—
 - (i) a variation of the quota entitlement under the licence previously made under subregulation (3)(c)(i) or (ii); and
 - (ii) in the case of the quota period that ends on 31 December 2022—a variation of the quota entitlement under the licence made under subregulation (3)(d)(i) or (iii) as in force immediately before the commencement of this paragraph.
- (4a) An application under subregulation (3)(a) may not be made in respect of abalone units allocated to the licence under subregulation (3)(c).
- (5) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and
 - (b) be completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the prescribed fee.
- (6) The holder of a licence in respect of the fishery must not, for a commercial purpose, take abalone if the unit entitlement under the licence in respect of a class of abalone specified in column 1 of the following table falls below the number specified alongside in column 2.

Maximum penalty: \$5 000.

Expiation fee: \$500.

Column 1	Column 2
Class of abalone	Unit entitlement
Blacklip Abalone	25
Greenlip Abalone	27.5

- (7) For the purposes of subregulation (6), if the conditions of a licence in respect of the fishery are varied so as to decrease the unit entitlement under the licence in respect of a class of abalone and the variation is expressed to apply only for the quota period during which the variation is made, the number of abalone units in the decrease must be taken to form part of the unit entitlement under the licence in respect of that class of abalone in determining whether the unit entitlement under the licence falls below the minimum specified in the table.

13—Only 1 registered boat to be used at any 1 time

The holder of a licence in respect of an abalone fishery must not—

- (a) use more than 1 registered boat at any 1 time to take abalone under the licence; or
- (b) cause, suffer or permit more than 1 registered boat to be used at any 1 time to take abalone under the licence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

14—Use of registered masters in fishing activities

- (1) Subject to this regulation, the holder of a licence in respect of an abalone fishery must not cause, suffer or permit more than 1 person (who must be a registered master) to engage in fishing activities under the licence on the same day.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) Subregulation (1) does not prevent—
- (a) 1 other (and only 1 other) registered master from engaging in fishing activities under a licence in respect of the Southern Zone Abalone Fishery on the same day as the first registered master provided that the 2 registered masters are not diving at the same time; or
 - (b) 1 other (and only 1 other) registered master who is a trainee diver from engaging in fishing activities under a licence in respect of an abalone fishery on the same day as the first registered master provided that—
 - (i) at all times while engaged in fishing activities, the trainee diver is under the direct supervision of the first registered master; and
 - (ii) the trainee diver does not engage in fishing activities under the licence on more than 10 days in any quota period for the abalone fishery.

- (3) In this regulation—

quota period for an abalone fishery—see regulation 10(1), regulation 11(1) and regulation 12(1);

trainee diver means a person with less than 30 days commercial abalone diving experience.

15—Registered boat not to be transported or towed to fishing location

The holder of a licence in respect of an abalone fishery must not cause, suffer or permit a registered boat to be transported or towed by another boat to a place at which the registered boat is to be used for the purpose of taking abalone under the licence.

Maximum penalty: \$5 000.

16—Catch and disposal requirements

- (1) The holder of a licence in respect of an abalone fishery or the registered master of a boat from which abalone is taken under such a licence must comply with the following provisions:
 - (a) the holder of the licence or registered master must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the catch and disposal of abalone taken under the licence as determined by the Minister;
 - (b) the holder of the licence or registered master must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
 - (c) the holder of the licence or registered master must ensure that abalone taken under the licence is weighed, stored, placed in containers, sealed, tagged, and transported, delivered, consigned or otherwise disposed of, and accompanied by such information, in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence and the registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (3) The holder of a licence in respect of an abalone fishery must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

17—Periodic returns

- (1) The holder of a licence in respect of an abalone fishery must provide the Department with such returns in the manner and form, at such times and containing such information, as determined by the Minister.
- (2) The holder of a licence must keep a record of each return that the licence holder provides to the Department under this regulation in such manner, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$500.

18—Provision relating to keeping of records

A person required under these regulations to keep a record for a period of time must ensure that the record—

- (a) is maintained in a good condition and is legible; and
- (b) is kept so that it is readily accessible; and
- (c) is produced for inspection by a fisheries officer on request.

Maximum penalty: \$2 500.

Expiation fee: \$210.

19—Minister's determinations

- (1) The Minister may make a determination for the purposes of a regulation.
- (2) A determination may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which it is expressed to apply.
- (3) If the Minister makes a determination, notice of the determination—
 - (a) must be published on the Department's website; and
 - (b) may also be published in the Gazette.
- (4) As soon as practicable after a determination of the Minister is made, a notice in writing setting out the date on which notice of the determination is published and the terms of the determination must be given to the persons bound by the determination in a manner and form that, in the opinion of the Minister, will bring the determination to the attention of those persons.
- (5) The Minister may, by further determination, vary or revoke a determination.
- (6) This regulation does not apply in relation to a determination made for the purposes of regulation 10, 11 or 12.

Schedule 2—Transitional provisions

Part 2—Transitional provisions

2—Eligibility to be granted fishery licence

- (1) Only a person who is, immediately before the commencement of this clause, the holder of a licence in respect of the Central Zone Abalone Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (2) Only a person who is, immediately before the commencement of this clause, the holder of a licence in respect of the Southern Zone Abalone Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (3) Only a person who is, immediately before the commencement of this clause, the holder of a licence in respect of the Western Zone Abalone Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation revoked by principal regulations

The *Fisheries Management (Abalone Fisheries) Regulations 2017* revoked the following:

Fisheries Management (Abalone Fisheries) Regulations 2006

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	220	<i>Gazette 8.8.2017 p3160</i>	15.1.2018: r 2
2020	320	<i>Gazette 17.12.2020 p5780</i>	17.12.2020: r 2
2022	74	<i>Gazette 1.9.2022 p5816</i>	1.10.2022 except rr 3, 5 & Sch 1—1.1.2023: r 2
2023	18	<i>Gazette 20.4.2023 p801</i>	1.5.2023: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>17.12.2020</i>
r 3	amended by 18/2023 r 3	1.5.2023
r 10		
r 10(1)		
following quota period	inserted by 74/2022 r 3(1)	1.1.2023
quota period 2020	inserted by 320/2020 r 4(1)	17.12.2020
quota period 2021	inserted by 320/2020 r 4(1)	17.12.2020
quota period 2022	inserted by 320/2020 r 4(1)	17.12.2020
quota period 2023	inserted by 320/2020 r 4(1)	17.12.2020
quota period 2024	inserted by 320/2020 r 4(1)	17.12.2020

Fisheries Management (Abalone Fisheries) Regulations 2017—1.5.2023

Legislative history

quota period 2025	inserted by 320/2020 r 4(1)	17.12.2020
r 10(3)	varied by 320/2020 r 4(2), (3)	17.12.2020
	amended by 74/2022 r 3(2), (3)	1.1.2023
	(d) deleted by 74/2022 r 3(2)	1.1.2023
r 10(4)	substituted by 74/2022 r 3(4)	1.1.2023
r 10(4a)	inserted by 74/2022 r 3(4)	1.1.2023
r 11		
r 11(1)		
abalone fishing area	deleted by 18/2023 r 4	1.5.2023
quota period	substituted by 74/2022 r 4(1)	1.10.2022
quota period 2019-2020	inserted by 320/2020 r 5(1)	17.12.2020
quota period 2020-2021	inserted by 320/2020 r 5(1)	17.12.2020
quota period 2021-2022	inserted by 320/2020 r 5(1)	17.12.2020
quota period 2022-2023	inserted by 320/2020 r 5(1)	17.12.2020
	amended by 74/2022 r 4(2)	1.10.2022
r 11(3)	varied by 320/2020 r 5(2)	17.12.2020
r 11(3a)	inserted by 320/2020 r 5(3)	17.12.2020
r 12		
r 12(1)		
following quota period	inserted by 74/2022 r 5(1)	1.1.2023
quota period 2020	inserted by 320/2020 r 6(1)	17.12.2020
quota period 2021	inserted by 320/2020 r 6(1)	17.12.2020
quota period 2022	inserted by 320/2020 r 6(1)	17.12.2020
quota period 2023	inserted by 320/2020 r 6(1)	17.12.2020
r 12(3)	varied by 320/2020 r 6(2)	17.12.2020
	amended by 74/2022 r 5(2), (3)	1.1.2023
r 12(3a)	inserted by 320/2020 r 6(3)	17.12.2020
	amended by 74/2022 r 5(4)	1.1.2023
r 12(4)	substituted by 74/2022 r 5(5)	1.1.2023
r 12(4a)	inserted by 74/2022 r 5(5)	1.1.2023
Sch 1	deleted by 18/2023 r 5	1.5.2023
Sch 2		
<i>Pt 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>17.12.2020</i>

Transitional etc provisions associated with regulations or variations

Fisheries Management (Abalone Fisheries) (Quota) Amendment Regulations 2022 (No 74 of 2022), Sch 1—Transitional provisions etc

1—Interpretation

In this Schedule—

principal regulations means the *Fisheries Management (Abalone Fisheries) Regulations 2017*;

relevant day means 1 January 2023.

2—Transitional provisions etc

- (1) If the total catch of abalone of a particular class taken by the holder of a licence in respect of the Central Zone Abalone Fishery subject to a condition fixing an abalone quota entitlement during the quota period that commenced on 1 January 2022 exceeded the quota entitlement under the licence in respect of that class of abalone and quota period, then despite the deletion of regulation 10(3)(b) of the principal regulations by regulation 3(2) of these regulations, regulation 10(3)(b), as in force immediately before the relevant day, continues to apply to the licence such that the Minister may vary the conditions of the licence, in accordance with that regulation, in relation to the quota period commencing on 1 January 2023.
- (2) If the total catch of abalone of a particular class taken by the holder of a licence in respect of the Western Zone Abalone Fishery subject to a condition fixing an abalone quota entitlement during the quota period that commenced on 1 January 2022 exceeded the quota entitlement under the licence in respect of that class of abalone and quota period, then despite the deletion of regulation 12(3)(b) of the principal regulations by regulation 5(2) of these regulations, regulation 12(3)(b), as in force immediately before the relevant day, continues to apply to the licence such that the Minister may vary the conditions of the licence, in accordance with that regulation, in relation to the quota period commencing on 1 January 2023.

Historical versions

17.12.2020

1.10.2022

1.1.2023