

Fisheries (Rock Lobster) Rules 2006

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

6 February 2006

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Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

These rules may be cited as the Fisheries (Rock Lobster) Rules 2006.

2. Commencement

These rules take effect on 28 February 2006.

3. Interpretation

In these rules –

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

"**authorised mooring**" means a mooring that is authorised by MAST (the Marine and Safety Authority established under the Marine and Safety Authority Act 1997);

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

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

(a) caught in a rock lobster pot or rock lobster ring and returned to the water immediately after being hauled to the deck of a fishing vessel; or

(b) deemed by the Secretary not to have been caught;

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

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

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

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

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

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

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

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

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

(a) in the south by an imaginary straight line from Scott Point (situated at the entrance of Port Esperance) to the northern point of Partridge Island and the line of longitude 147° 5' 54" East between the southernmost point of Partridge Island and Labillardiere Peninsula on Bruny Island; and

(b) in the north by an imaginary straight line from Dennes Point on Bruny Island to Piersons Point situated on the western shore of the River Derwent;

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

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

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

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

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

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

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

(c) the portion of the total weight of research quota units specified in the licence that remains to be caught in the quota year;

"fishing trip" means a trip undertaken for fishing, commencing on the departure from a port, port of landing or authorised mooring and ending on the return to a port, port of landing or authorised mooring;

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

"Grade 1 penalty" means the penalty specified in regulation 5 of the *Fisheries Penalties Regulations 2001*;

"Grade 2 penalty" means the penalty specified in regulation 6 of the *Fisheries Penalties Regulations 2001*;

"Grade 3 penalty" means the penalty specified in regulation 7 of the *Fisheries Penalties Regulations 2001*;

"holder of a fishing licence" includes (except in rules 8, 45, 47 and 54) a person who has approval to use the licence under section 87(2) of the Act;

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

"immediate proximity", of any place or position, means –

(a) within 100 metres of the place or position; or

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

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

"interstate port of landing report" means a report to the reporting service made by approved means and containing approved information;

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

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

"octopus" means fish of the genus *Octopus*;

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

"port of landing" means a port specified in Schedule 1;

"quota year" means the period referred to in rule 8(1) during which the total allowable catch for the commercial rock lobster fishery and the recreational rock lobster fishery may be taken;

"recreational fishing licence" means a fishing licence referred to in rule 7(b);

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

"relevant fishing certificate", in relation to a fishing licence, means the fishing certificate maintained by the Secretary under section 63 of the Act in respect of the fishing licence;

"reporting service" means a service approved under rule 82(1);

"research quota unit" means an entitlement to take rock lobster in accordance with rule 45;

"rock lobster" means rock lobster of the genus *Jasus*;

"rock lobster carry over unit" means a unit equivalent to the weight of rock lobster allocated under rule 44(1);

"rock lobster catch record" means a record, in an approved form, relating to rock lobster catch that is part of the records required to be kept under the Act;

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

"rock lobster pot" means –

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

(b) a component part of such a basket, trap, cage or other contrivance;

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

"rock lobster ring" means a net that –

(a) consists only of a single fixed ring or hoop to which a mesh of string or twine is attached; and

(b) is designed for use, or is capable of being used, for or in connection with the taking of rock lobster;

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

"site of unloading", of rock lobster, means –

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

- (i) is unloaded; or
- (ii) makes contact with a jetty or artificial extension of land; or
- (b) any other place determined by the Secretary;

"State" includes Territory;

"Taroona waters" means Taroona waters as defined in the *Fisheries Rules 1999*;

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

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

"vessel monitoring system" means a navigational measuring system that –

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

4. Application of rules

These rules apply to the rock lobster fishery.

5. Duration of rules

These rules continue in force for a period of 6 years.

6. Consultation arrangements

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

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

7. Classes of fishing licence

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

- (a) class rock lobster, fishing licence (rock lobster);
- (b) class recreational –
- (i) fishing licence (recreational rock lobster dive); or

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

PART 2 - General Management of Fishery

8. Total allowable catch

(1) The quota period during which the total allowable catch for the commercial rock lobster fishery and the recreational rock lobster fishery may be taken is the period beginning on 1 March in a year and ending on the last day of February in the following year.

(2) The total allowable catch for the commercial rock lobster fishery and the recreational rock lobster fishery is to be allocated as follows:

- (a) if the total allowable catch is set at less than 1 700 tonnes –
 - (i) the recreational rock lobster fishery is to be allocated 170 tonnes; and
 - (ii) the commercial rock lobster fishery is to be allocated the total allowable catch minus 170 tonnes;
- (b) if the total allowable catch is set at 1 700 tonnes or more –
 - (i) the recreational rock lobster fishery is to be allocated 10% of the total allowable catch; and
 - (ii) the commercial rock lobster fishery is to be allocated 90% of the total allowable catch.

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

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

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

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

Penalty:

Grade 3 penalty.

10. Closed and open seasons

The Minister, by public notice, may determine –

- (a) the dates of the closed season for all or part of the rock lobster fishery; and
- (b) the dates of the open season for all or part of the rock lobster fishery.

11. Closed seasons – general restrictions

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

Penalty:

Grade 3 penalty.

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

- (a) taken, bought or sold during an open season for the male rock lobster fishery; or
- (b) in the person's possession during an open season for the male rock lobster fishery; or
- (c) imported into the State.

Penalty:

Grade 3 penalty.

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

- (a) taken, bought or sold during an open season for the female rock lobster fishery; or
- (b) in the person's possession during an open season for the female rock lobster fishery; or
- (c) imported into the State.

Penalty:

Grade 3 penalty.

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

(1) The holder of a fishing licence (rock lobster) must not, during a closed season for the female rock lobster fishery, be in possession of female rock lobster in a fish cauf unless the female rock lobster were taken before that closed season commenced.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (rock lobster) must not, during a closed season for the female rock lobster fishery, be in possession of female rock lobster on a fishing vessel unless the fishing vessel is in a port or on an authorised mooring that it had returned to before, and not left since, that closed season commenced.

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (rock lobster) who, following a fishing trip, is in possession of female rock lobster on a fishing vessel during a closed season for the female rock lobster fishery must unload the female rock lobster before the fishing vessel is used by any person for a further fishing trip.

Penalty:

Grade 3 penalty.

(4) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (2) or (3) in respect of any female rock lobster if –

(a) that licensee has the approval of a fisheries officer to use alternative arrangements for holding female rock lobster on a fishing vessel during a closed season for the female rock lobster fishery; and

(b) the female rock lobster are held in accordance with that approval.

(5) If an approval under subrule (4) is given verbally, the fisheries officer is to confirm that approval in writing to the licensee as soon as practicable after it is given.

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

(1) The holder of a fishing licence (rock lobster) who is in possession of rock lobster on a fishing vessel during a closed season for the male rock lobster fishery is guilty of an offence unless that licensee does all of the following:

(a) makes a closed season report within 24 hours after the commencement of that closed season;

(b) within 14 days after the commencement of that closed season –

(i) weighs the rock lobster, if any, that have not been unloaded; and

(ii) after the weighing, completes the required sections of Part A of a commercial rock lobster quota docket; and

(iii) sends the pink and yellow sheets of the commercial rock lobster quota docket (with the required sections of Part A of the docket completed) to the Secretary;

(c) unloads all the rock lobster before the commencement of that licensee's first fishing trip of the next open season for the male rock lobster fishery;

(d) whenever any of the rock lobster are unloaded from the fishing vessel –

(i) completes a new commercial rock lobster quota docket in accordance with Division 2 of Part 6; and

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

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –

(a) that licensee has the Secretary's written approval to use alternative arrangements when holding rock lobster on a fishing vessel during a closed season for the male rock lobster fishery; and

(b) the rock lobster are held in accordance with that approval.

14. Limit on number of rock lobster that persons may take or possess

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

Penalty:

Grade 3 penalty.

(2) A person must not be in possession of more than 5 rock lobster at any one time unless –

(a) the person is the holder of –

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

(ii) a recreational fishing licence; or

(b) the person is an Aborigine engaging in an Aboriginal activity; or

(c) the person has a receipt verifying the purchase of the excess rock lobster; or

(d) the person has a transfer document verifying that the excess rock lobster were sold or transferred to the person by the holder of a fishing licence (rock lobster).

Penalty:

Grade 3 penalty.

(3) A person must not be in possession of more than 10 rock lobster at any one time if the person is –

(a) the holder of a recreational fishing licence; or

(b) an Aborigine engaging in an Aboriginal activity.

Penalty:

Grade 3 penalty.

(4) However, during the transitional period, subrules (2) and (3) do not apply to –

(a) the possession of rock lobster at a dwelling if the total number of the rock lobster is not more than the aggregate of –

(i) 10 for each Category A occupant of the dwelling and 5 for each Category D occupant of the dwelling; and

(ii) a further 10 for each Category B occupant of the dwelling; or

(b) the possession of rock lobster in a vehicle if the total number of the rock lobster is not more than the aggregate of –

(i) 10 for each Category A occupant of the vehicle and 5 for each Category D occupant of the vehicle; and

(ii) a further 10 for each Category B occupant of the vehicle whose occupancy is within the period specified in that occupant's fishing licence (recreational special rock lobster).

(5) Also, on or after 1 November 2006, subrules (2) and (3) do not apply to –

(a) the possession of rock lobster at a dwelling if the total number of the rock lobster is not more than the aggregate of –

(i) 10 for each Category A occupant of the dwelling; and

(ii) 5 for each Category C occupant of the dwelling; or

(b) the possession by a person of rock lobster in a vehicle if the total number of the rock lobster is not more than the aggregate of –

(i) 10 for each Category A occupant of the vehicle; and

(ii) 5 for each Category C occupant of the vehicle.

(6) In this rule –

"Category A occupant", of a dwelling or vehicle at a particular time, means an occupant who, at that time, is –

(a) the holder of a recreational fishing licence; or

(b) an Aborigine engaging in an Aboriginal activity;

"Category B occupant", of a dwelling or vehicle at a particular time, means an occupant who, not more than 90 days before that time, has been the holder of a 14-day or 28-day fishing licence (recreational special rock lobster);

"Category C occupant", of a dwelling or vehicle at a particular time, means an occupant who, not more than 90 days before that time, has been the holder of a 14-day fishing licence (recreational special rock lobster);

"Category D occupant", of a dwelling or vehicle at a particular time, means an occupant who, at that time, is not a Category A or Category B occupant;

"excess rock lobster" means rock lobster in excess of 5 rock lobster;

"occupant", of a dwelling, means a natural person who resides at the dwelling on a permanent basis;

"transfer document" means –

(a) a commercial rock lobster quota docket; or

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

(c) a commercial rock lobster and giant crab sales receipt;

"transitional period" means the period commencing on the commencement day and ending at midnight on 31 October 2006.

15. Size limits – rock lobster

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

(a) a male rock lobster that has a carapace less than 110 millimetres long; or

(b) a female rock lobster that has a carapace less than 105 millimetres long.

Penalty:

Grade 3 penalty.

(2) For the purposes of this rule, the carapace length of a rock lobster (whether alive, dead or processed) is taken to be the minimum distance from the anterior surface of the median suture of the frontal tubercle to the posterior edge of the dorsal region of the carapace, excluding any attached hairs.

(3) In this rule –

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

16. Size limits – rock lobster tail

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

Penalty:

Grade 3 penalty.

17. Protection of female breeding stock

A person must not –

(a) take, buy, sell or be in possession of a female rock lobster that has any spawn or eggs attached to it; or

(b) remove from a female rock lobster any spawn or eggs; or

(c) remove from a female rock lobster the setae or fibres to which any eggs are or have been attached;
or

(d) be in possession of a female rock lobster from which any spawn, eggs, setae or fibres have been removed.

Penalty:

Grade 3 penalty.

18. Dismembering rock lobster, &c.

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

Penalty:

Grade 3 penalty.

(2) However, a person is not guilty of an offence under subrule (1) by –

(a) being in possession of a single cut up or dismembered rock lobster on a fishing vessel if –

(i) the holder of a fishing licence (rock lobster) is on the fishing vessel; and

(ii) the fishing vessel is not in port; or

(b) being in possession of a single cut up or dismembered rock lobster on a vessel being used for recreational purposes if –

(i) the holder of a recreational fishing licence is on the vessel; and

(ii) the vessel is not in port; or

(c) being in possession of dismembered or cut up rock lobster, or rock lobster meat, that has been purchased from a fish merchant or retail outlet.

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

A person must not, in State waters –

(a) use or be in possession of a rock lobster, or any part of a rock lobster, as bait in any apparatus; or

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

Penalty:

Grade 3 penalty.

20. Rock lobster not to be taken in Taroona waters

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

Penalty:

Grade 3 penalty.

21. Persons authorised to possess untagged or unmarked rock lobster

A person must not be in possession of rock lobster that is not marked in accordance with rule 36 or tagged in accordance with rule 93 unless that person is –

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

Penalty:

Grade 3 penalty.

PART 3 - Recreational Rock Lobster Fishery

Division 1 - General matters

22. Taking of rock lobster for recreational purposes

(1) A person must not take rock lobster for recreational purposes unless the person is the holder of a recreational fishing licence.

Penalty:

Grade 3 penalty.

(2) However, a person is not guilty of an offence under subrule (1) in respect of rock lobster taken for recreational purposes if the rock lobster are taken during the transitional period, by means of a handline, from the shore.

(3) A person must not, during the transitional period, take rock lobster for recreational purposes by means of any apparatus other than a rock lobster pot, rock lobster ring or handline.

Penalty:

Grade 3 penalty.

(4) A person must not, on or after 1 November 2006, take rock lobster for recreational purposes by means of any apparatus other than a rock lobster pot or rock lobster ring.

Penalty:

Grade 3 penalty.

(5) A person must not take rock lobster for recreational purposes by means of diving or swimming unless the person is the holder of a fishing licence (recreational rock lobster dive).

Penalty:

Grade 3 penalty.

(6) A person must not take rock lobster for recreational purposes by means of a rock lobster pot unless the person is the holder of a fishing licence (recreational rock lobster pot).

Penalty:

Grade 3 penalty.

(7) A person must not take rock lobster for recreational purposes by means of a rock lobster ring unless the person is the holder of a fishing licence (recreational rock lobster ring).

Penalty:

Grade 3 penalty.

(8) In this rule –

"**transitional period**" means the period commencing on the commencement day and ending at midnight on 31 October 2006.

23. Restrictions on fishing licences (recreational rock lobster dive)

The holder of a fishing licence (recreational rock lobster dive) must not, in State waters –

(a) take rock lobster by any means other than a bare or gloved hand; or

(b) take or be in possession of rock lobster during a fishing trip during which fishing for commercial purposes is carried out under the authority of another licence.

Penalty:

Grade 3 penalty.

24. Restrictions on fishing licences (recreational rock lobster pot)

(1) The holder of a fishing licence (recreational rock lobster pot) must not, in State waters, set or use or be in possession of more than one rock lobster pot at any one time.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (recreational rock lobster pot) must not, in State waters, set or use or be in possession of a rock lobster pot during a fishing trip during which fishing for commercial purposes is carried out.

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

(4) However, the holder of a fishing licence (recreational rock lobster pot) is not guilty of an offence under subrule (3) in respect of a rock lobster pot if –

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

(i) adverse weather conditions; or

(ii) mechanical breakdown of, or structural damage to, the vessel from which the rock lobster pot is set; or

(iii) illness or incapacity of the licensee; and

(b) the licensee advises a fisheries officer, within 48 hours after the rock lobster pot is set, that the rock lobster pot cannot be retrieved within that period and the reason why it cannot be so retrieved; and

(c) the licensee, within 48 hours after giving the advice referred to in paragraph (b), advises a fisheries officer of the arrangements made to retrieve the rock lobster pot; and

(d) the licensee ensures that the rock lobster pot is retrieved in accordance with such directions as the fisheries officer referred to in paragraph (c) may give for its retrieval.

25. Restrictions on fishing licences (recreational rock lobster ring)

(1) The holder of a fishing licence (recreational rock lobster ring) must not, in State waters, set or use or be in possession of more than 4 rock lobster rings at any one time.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (recreational rock lobster ring) must not, in State waters, set or use or be in possession of a rock lobster ring during a fishing trip during which fishing for commercial purposes is carried out.

Penalty:

Grade 3 penalty.

Division 2 - Recreational fishing licences

26. Authority of recreational fishing licence

(1) A fishing licence (recreational rock lobster dive) only authorises its holder to take rock lobster by means of diving or swimming for recreational fishing.

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

(a) use one rock lobster pot to take rock lobster for recreational fishing; and

(b) take one giant crab on any one day; and

(c) be in possession, in State waters, of one giant crab at any one time.

(3) A fishing licence (recreational rock lobster ring) only authorises its holder to use up to 4 rock lobster rings to take rock lobster for recreational fishing.

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

After 1 November 2006, a person is not eligible to hold more than one of each of the recreational fishing licences specified in rule 7(b)(i), (ii) and (iii).

28. Restrictions on issue of special rock lobster licences

(1) A fishing licence (recreational special rock lobster) may only be granted and issued to the holder of a recreational fishing licence.

(2) A person may only be granted and issued with one 14-day fishing licence (recreational special rock lobster) during a 12-month period commencing on 1 November in any year.

29. Minors not eligible to hold recreational fishing licences

A person who has not attained the age of 10 years is not eligible to hold a fishing licence, class recreational.

Division 3 - Miscellaneous

30. Recreational fishing licence numbers

(1) This section applies if the Secretary issues a recreational fishing licence.

(2) The Secretary, on issuing the recreational fishing licence, is to –

(a) allot a number to the licence; and

(b) notify the holder of the licence of that number.

(3) The holder of the recreational fishing licence, on being notified of the number of the licence pursuant to subrule (2), must –

(a) mark that number, in figures at least 70 millimetres high and at least 12 millimetres wide, on the marker buoy required for any rock lobster pot or rock lobster ring used under the licence; and

(b) mark the letter "P", in lettering at least 70 millimetres high and at least 12 millimetres wide, on the marker buoy required for any rock lobster pot used under the licence.

Penalty:

Grade 2 penalty.

(4) The holder of the recreational fishing licence must ensure that –

(a) the marker buoy required for any apparatus used under the licence does not have any identifying mark other than a mark made pursuant to subrule (3)(a) or (b); and

(b) a mark made on a marker buoy pursuant to subrule (3)(a) or (b) is, and remains, clear and legible.

Penalty:

Grade 2 penalty.

31. Attachment of marker buoys to rock lobster pots, rock lobster rings or fish caufs

(1) The holder of a recreational fishing licence must not set or use a rock lobster pot, rock lobster ring or fish cauf unless the marker buoy to which the licence relates is attached to the rock lobster pot, rock lobster ring or fish cauf.

Penalty:

Grade 2 penalty.

(2) However, it is a defence in proceedings for an offence under subrule (1) if the defendant establishes that the defendant was at all times within the immediate proximity of the rock lobster ring.

32. Issue of recreational fishing apparatus tags

The Secretary may issue the holder of a fishing licence (recreational rock lobster pot) with a recreational fishing apparatus tag for an apparatus authorised to be used under the licence.

33. Use of recreational fishing apparatus tags

(1) This rule applies if, under rule 32, the Secretary issues the holder of a fishing licence (recreational rock lobster pot) with a recreational fishing apparatus tag (referred to in this rule as "the tag") for an apparatus authorised to be used under the licence.

(2) The holder of the fishing licence (recreational rock lobster pot) must not use the apparatus under the licence unless the tag is attached to the apparatus so that the tag is clearly visible on the surface of the water when the apparatus is in use.

Penalty:

Grade 2 penalty.

(3) However, if the tag is destroyed or lost –

(a) the holder of the fishing licence (recreational rock lobster pot), for 14 days after the date of learning of the destruction or loss, may use the apparatus without the tag if a buoy clearly marked with that date is attached to the apparatus; and

(b) the Secretary, if satisfied as to the tag's destruction or loss, and on payment of the prescribed fee, may issue the holder of the fishing licence (recreational rock lobster pot) with a new tag if the licence is presented to the Secretary.

34. Use of fish caufs

A person must not use a fish cauf for rock lobster taken by recreational fishing unless –

(a) the person holds a recreational fishing licence; and

(b) the fish cauf is marked with a yellow buoy that has the number of that recreational fishing licence clearly and legibly marked on it, in figures at least 70 millimetres high and at least 12 millimetres wide; and

(c) each rock lobster in the fish cauf is marked in accordance with rule 36.

Penalty:

Grade 2 penalty.

35. Aboriginal activity apparatus tags

(1) The Secretary may –

(a) issue an Aborigine who intends to use a rock lobster pot in the course of an Aboriginal activity with a tag for that rock lobster pot; or

(b) approve a tag for a rock lobster pot that an Aborigine intends to use in the course of an Aboriginal activity.

(2) An Aborigine who is issued with a tag for a rock lobster pot under subrule (1), or has a tag for a rock lobster pot approved under that subrule, must not use the rock lobster pot in the course of an Aboriginal activity unless the tag is attached to the rock lobster pot so as to be clearly visible on the surface of the water when the rock lobster pot is in use.

Penalty:

Grade 2 penalty.

36. Marking of rock lobster

(1) A person who takes rock lobster under a recreational fishing licence, or an Aborigine who takes rock lobster when engaging in an Aboriginal activity, must ensure that –

(a) the central segment of the tail fan of each rock lobster taken is marked by –

(i) being punched with a hole that is at least 10 millimetres in diameter; or

(ii) having its posterior quarter removed, by a transverse cut, so that only the anterior three-quarters of the central segment of the tail fan remains attached to the rock lobster; and

(b) the marking under paragraph (a) is carried out –

(i) if the rock lobster is taken by any means and placed on a vessel, within 5 minutes after being brought to the vessel and before the vessel returns to shore; or

(ii) if the rock lobster is taken by any means from the shore, within 5 minutes after being brought on land and within 50 metres of the place of landing.

Penalty:

Grade 2 penalty.

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

Penalty:

Grade 3 penalty.

(3) A person must not return to the water a rock lobster that has been marked in the manner referred to in subparagraph (i) or (ii) of subrule (1)(a).

Penalty:

Grade 3 penalty.

37. Taking and possession of giant crab

The holder of a fishing licence (recreational rock lobster pot) must not, in State waters –

(a) take more than one giant crab on any one day; or

(b) be in possession of more than one giant crab at any one time.

Penalty:

Grade 3 penalty.

PART 4 - Commercial rock lobster fishery

Division 1 - Taking and catch controls and catch management

38. Taking of rock lobster

(1) A person must not take rock lobster for commercial purposes unless –

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

(b) the rock lobster is taken by means of a rock lobster pot or rock lobster ring.

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (rock lobster) must not take rock lobster unless the number of rock lobster quota units, rock lobster carry over units and rock lobster research quota units that may be taken under the licence is specified in the licence.

Penalty:

Grade 3 penalty.

39. Fishing quota unit balance not to be exceeded

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

Penalty:

Grade 3 penalty.

(1A) The holder of a fishing licence (rock lobster) endorsed under rule 62(1)(a) for the unloading of rock lobster in another State must not, in that other State, be in possession of more rock lobster than the fishing quota unit balance for the licence.

Penalty:

Grade 3 penalty.

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

(a) the rock lobster died after being caught and the defendant complied with rule 66; or

(b) the rock lobster were retained for personal use in accordance with rule 70.

40. Overcatch provisions

(1) Notwithstanding rule 39(1) and (1A), the holder of a fishing licence (rock lobster) is not guilty of an offence under that rule in respect of any rock lobster if –

(a) the total amount of rock lobster does not exceed the licence quota unit balance for the licence by more than 30%; and

(b) the licensee –

(i) pays to the Crown, in respect of the excess rock lobster, an amount equivalent to 150% of their beach price; or

(ii) does one of the following:

(A) does not commence another fishing trip until additional rock lobster quota units or rock lobster carry over units are specified in the licence so as to make its fishing quota unit balance greater than zero;

(B) requests (if another fishing trip is not commenced in the quota year during which the excess rock lobster are taken or possessed) that the Secretary deduct from the fishing quota unit balance for the licence for the following quota year an amount of rock lobster equivalent to the excess rock lobster.

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

(a) the quota year in which the excess rock lobster are taken; or

(b) if that is not practicable, a subsequent quota year.

(3) In this rule –

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

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

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

(a) the weight of the rock lobster quota units specified in the licence that remain to be caught and unloaded at the relevant time;

(b) the portion of the total weight of the rock lobster carry over units specified in the licence that remains to be caught and unloaded at the relevant time;

(c) the weight of any rock lobster quota units transferred to or from the licensee since the relevant time;

(d) the weight of any rock lobster carry over units transferred to or from, or allocated to, the licence since the relevant time;

(e) the weight of any rock lobster research quota units transferred to or from, or allocated to, the licence since the relevant time;

(f) the weight of any deduction, permitted by these rules, from a previous quota year;

"relevant time" means –

(a) in respect of the period immediately preceding the unloading of the first rock lobster in a quota year, the time when, in that quota year, a fishing licence comes into force; or

(b) in respect of any other period, the time of the commencement of a fishing trip.

41. Deduction of excess catch from quota

(1) This rule applies if the holder of a fishing licence (rock lobster) –

(a) takes, or is in State waters in possession of, more rock lobster than the fishing quota unit balance for the licence; and

(b) the rock lobster so taken, or possessed in State waters, exceed the licence quota unit balance for the licence by more than 30%.

(2) The Minister may deduct the excess rock lobster from –

(a) the fishing quota unit balance for the licence for the quota year during which the excess rock lobster are taken or possessed; or

(b) the fishing quota unit balance for the licence for a subsequent quota year.

(3) Nothing in this rule is to be taken as preventing any proceedings or other action from being taken in respect of the taking or possession of the excess rock lobster.

(4) In this rule –

"**excess rock lobster**", for a fishing licence, has the same meaning as in [rule 40](#);

"**licence quota unit balance**", for a fishing licence, has the same meaning as in [rule 40](#).

42. Commercial rock lobster quota docket book

(1) The holder of a fishing licence (rock lobster) who undertakes a fishing trip in a quota year must ensure that the licensee's commercial rock lobster quota docket book is, for the duration of the fishing trip, kept on the vessel used for the fishing trip.

Penalty:

Grade 2 penalty.

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

Penalty:

Grade 2 penalty.

(3) In this rule –

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

43. Deduction from quota at end of quota year

(1) The holder of a fishing licence (rock lobster) must not be in possession of rock lobster on a fishing vessel after the end of the quota year during which the rock lobster are taken unless that licensee –

(a) within 48 hours after the commencement of the quota year following the quota year in which the rock lobster are taken –

(i) weighs the rock lobster; and

(ii) after the weighing, completes the required sections of Part A of a commercial rock lobster quota docket; and

(iii) sends the pink and yellow sheets of the commercial rock lobster quota docket (with the required sections of Part A of the docket completed) to the Secretary; and

(b) unloads all the rock lobster before the commencement of that licensee's first fishing trip of the quota year following the quota year in which the rock lobster are taken; and

(c) whenever any of the rock lobster are unloaded –

(i) completes a new commercial rock lobster quota docket in accordance with Division 2 of Part 6; and

(ii) enters, on the new commercial rock lobster quota docket, the number of the docket referred to in subrule (1)(a)(ii).

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –

(a) that licensee has the Secretary's written approval to use alternative arrangements for holding rock lobster on a fishing vessel after the end of a quota year; and

(b) the rock lobster are held in accordance with that approval.

(3) The holder of a fishing licence (rock lobster) must not hold rock lobster in a fish cauf after the end of the quota year during which the rock lobster are taken unless that licensee –

(a) within 48 hours after the commencement of the quota year following the quota year in which the rock lobster are taken –

(i) weighs the rock lobster; and

(ii) after the weighing, completes the required sections of Part A of a commercial rock lobster quota docket; and

(iii) sends the pink and yellow sheets of the commercial rock lobster quota docket (with the required sections of Part A of the docket completed) to the Secretary; and

(b) unloads all the rock lobster from the fish cauf before placing in the fish cauf any other rock lobster; and

(c) whenever any of the rock lobster are unloaded –

(i) completes a new commercial rock lobster quota docket in accordance with Division 2 of Part 6; and

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

Penalty:

Grade 3 penalty.

44. Allocation of uncaught portion

(1) The Minister may allocate to each fishing licence (rock lobster) the weight of the uncaught portion of the rock lobster quota unit balance for the licence for a quota year (up to the equivalent of one rock lobster quota unit) as the rock lobster carry over unit for the licence for the following quota year.

(2) A rock lobster carry over unit may be temporarily transferred.

(3) A rock lobster carry over unit is not to be permanently transferred.

45. Research quota units

(1) The Secretary may allocate a research quota unit to the holder of a fishing licence (rock lobster).

(2) A research quota unit allocated to the holder of the fishing licence (rock lobster) under subrule (1) authorises that licensee to take, for commercial purposes, the weight of rock lobster determined under subrule (3)(a).

(3) The Secretary is to determine –

(a) the weight of rock lobster that may be taken under a research quota unit; and

(b) the conditions on which the rock lobster may be taken.

(4) The Secretary is not to allocate research quota units so that the total weight of those research quota units exceeds 1% of the total allowable catch for the commercial rock lobster fishery.

(5) The holder of a fishing licence (rock lobster) who has been allocated a research quota unit under subrule (1) must comply with the conditions determined under subrule (3)(b).

Penalty:

Grade 3 penalty.

(6) A research quota unit may be temporarily transferred.

(7) A research quota unit is not to be permanently transferred.

Division 2 - Commercial fishing licences

46. Authority of fishing licence (rock lobster)

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

(a) take the weight of rock lobster represented by the rock lobster quota units specified in the licence; and

(b) take the weight of rock lobster equivalent to the rock lobster carry over unit specified in the licence; and

(c) take the weight of rock lobster equivalent to the total weight determined under rule 45(3)(a) for the research quota units, if any, specified in the licence; and

(d) take rock lobster for sale; and

(e) use the number of rock lobster pots specified in the licence; and

(f) use the fishing vessel specified in the relevant fishing certificate to take rock lobster; and

(g) take up to 100 kilograms of octopus during a fishing trip and in State waters be in possession of up to 100 kilograms of octopus at any one time; and

(h) take up to 100 kilograms of giant crab during the period of the licence and in State waters be in possession of 10 or fewer giant crab at any one time; and

(i) use up to 4 rock lobster rings at any one time; and

(j) take up to 50 kilograms of inshore crab during a fishing trip and in State waters be in possession of up to 50 kilograms of inshore crab at any one time.

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

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

(a) held a fishing licence (rock lobster) on the 28 February most immediately preceding the application lodgment date; and

(b) had not, before the application lodgment date, transferred that fishing licence (rock lobster) to another person.

48. Limit on number of fishing licences (rock lobster)

The Minister is to ensure that no more than 315 fishing licences (rock lobster) are in force at any one time.

49. Maximum licence holdings

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

(a) hold more than 7 separate fishing licences (rock lobster) at any one time; or

(b) receive any payment, financial advantage or benefit in kind from more than 7 separate fishing licences (rock lobster).

Penalty:

Grade 3 penalty.

50. Copy of licence to be carried on fishing vessel during fishing trip

The holder of a fishing licence (rock lobster) must, during a fishing trip, keep a copy of that licence on the fishing vessel used for that fishing trip.

Penalty:

Grade 2 penalty.

Division 3 - Quota units

51. Allocation of rock lobster quota units

(1) The Minister is to allocate rock lobster quota units to the holders of fishing licences that entitle the taking of rock lobster for commercial purposes.

(2) A fishing licence (rock lobster) is to specify the number of rock lobster quota units to which the holder is entitled.

(3) The Minister may only allocate up to a total of 10 507 rock lobster quota units.

52. Minimum and maximum quota unit holdings

(1) The number of rock lobster quota units held on a licence is to be at least one.

(1A) The combined total of rock lobster quota units and rock lobster carry over units held on a licence must not exceed 200.

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

(a) hold more than 200 rock lobster quota units at any one time; or

(b) receive any payment, financial advantage or benefit in kind from more than 200 rock lobster quota units.

Penalty:

Grade 3 penalty.

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

(1) A fishing licence (rock lobster) that has fewer than 15 rock lobster quota units specified in it is to –

(a) be endorsed with a condition that prohibits the licence from being used to take fish unless the Secretary authorises it to be so used; or

(b) have at least one rock lobster quota unit specified in it and be on the same relevant fishing certificate as a fishing licence (giant crab) that has at least 15 giant crab quota units specified in it.

(2) In this rule –

"giant crab quota unit" has the same meaning as in the *Fisheries (Giant Crab) Rules 2006*.

54. Restrictions on transfer of quota units

(1) The Minister is not to transfer rock lobster quota units, rock lobster carry over units or research quota units to a person who is not the holder of a fishing licence (rock lobster).

(2) The Minister is not to transfer rock lobster quota units, rock lobster carry over units or research quota units unless –

(a) the fishing quota unit balance for the transferor's fishing licence (rock lobster) is reduced by a weight equivalent to the number of those rock lobster quota units, rock lobster carry over units or research quota units; and

(b) the weight of rock lobster for those rock lobster quota units, rock lobster carry over units or research quota units has not already been caught.

(3) The Minister is not to transfer –

(a) partially caught rock lobster quota units; or

(b) partially caught rock lobster carry over units; or

(c) partially caught research quota units.

(4) However, subrule (2)(b) and subrule (3) do not apply to the permanent transfer of rock lobster quota units that are transferred with the fishing licence (rock lobster) in which the rock lobster quota units are specified.

(5) The Minister is not to transfer a rock lobster quota unit to a person on a permanent basis without also transferring the entitlement to a rock lobster pot to that person.

(6) The Minister is not to transfer an entitlement to a rock lobster pot to a person on a permanent basis without also transferring a rock lobster quota unit to that person.

Division 4 - Unloading, sale, transfer and transportation controls

55. All rock lobster to be unloaded

The holder of a fishing licence (rock lobster) must unload every rock lobster caught under the licence except for those that are –

(a) retained for personal use in accordance with rule 70; or

(b) dealt with in accordance with rule 66.

Penalty:

Grade 3 penalty.

56. Rock lobster to be unloaded at port of landing

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

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –

(a) that licence is endorsed with alternative unloading conditions and the rock lobster are unloaded in accordance with those conditions; or

(b) the rock lobster have to be unloaded away from a port of landing in an emergency because of a threat to the safety of the fishing vessel or its crew.

(3) Also, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of any rock lobster if –

(a) that licensee advises a fisheries officer of –

(i) that licensee's intention to unload the rock lobster at another port in Tasmania; and

(ii) the location of that other port; and

(b) that advice is given at least 6 hours before the rock lobster are unloaded; and

(c) the other port is no more than 200 metres from a public road; and

(d) the rock lobster are unloaded between 6 a.m. and 6 p.m.; and

(e) the rock lobster are sold to the holder of a fish processing licence or handling licence.

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

(1) This rule applies if the holder of a fishing licence (rock lobster) sells or transfers rock lobster to the holder of a fish processing licence or handling licence within the immediate proximity of the site of unloading.

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

(a) make an unloading report at least 2 hours before the rock lobster are unloaded; and

(b) complete Part A of a commercial rock lobster quota docket before the rock lobster are removed from the immediate proximity of the site of unloading; and

(c) send the pink sheet of the completed commercial rock lobster quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(3) However, the holder of the fishing licence (rock lobster) is not guilty of an offence under subrule (2) if –

(a) the rock lobster being sold or transferred are unloaded into processing premises located within the immediate proximity of the site of unloading; and

(b) the licensee completes Part A of a commercial rock lobster quota docket –

(i) before the holder of a fish processing licence makes the receipt report relating to the rock lobster specified in that docket; and

(ii) before Part B of that docket is completed; and

(iii) within 15 minutes after the last rock lobster relating to that docket enters any place, within the processing premises, that is fully enclosed.

58. Transportation of rock lobster to fish processor or handler

(1) This rule applies if the holder of a fishing licence (rock lobster) transports rock lobster to the holder of a fish processing licence or handling licence.

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

(a) make an unloading report at least 2 hours before the rock lobster are unloaded; and

(b) complete Part A of a commercial rock lobster quota docket before the rock lobster are removed from the immediate proximity of the site of unloading; and

(c) make a movement report before the rock lobster are removed from the immediate proximity of the site of unloading; and

(d) send the pink sheet of the commercial rock lobster quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

(3) The holder of the fish processing licence or handling licence must complete Part B of the commercial rock lobster quota docket on receipt of the rock lobster.

Penalty:

Grade 3 penalty.

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

(1) This rule applies if the holder of a fishing licence (rock lobster) sells or transfers rock lobster to a person other than the holder of a fish processing licence or handling licence.

(2) If no more than 20 rock lobster are sold or transferred, and the sale or transfer occurs within the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –

(a) complete and issue a commercial rock lobster and giant crab sales receipt to the person receiving the rock lobster before the rock lobster are removed from the site of unloading; and

(b) tag the rock lobster in accordance with rule 93 before the rock lobster are removed from the site of unloading; and

(c) before midnight of the day of the sale or transfer, complete a commercial rock lobster and giant crab direct sales quota docket; and

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

Penalty:

Grade 3 penalty.

(3) If no more than 20 rock lobster are sold or transferred, and the sale or transfer occurs outside the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –

(a) make an unloading report at least 2 hours before the rock lobster are removed from the immediate proximity of the site of unloading; and

(b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of rock lobster unloaded before the rock lobster are removed from the site of unloading; and

(c) tag the rock lobster in accordance with rule 93 before the rock lobster are removed from the site of unloading; and

(d) make a movement report before the rock lobster are removed from the site of unloading; and

(e) complete and issue, at the time of the sale or transfer, a commercial rock lobster and giant crab sales receipt to the person receiving the rock lobster; and

(f) before midnight of the day of the sale or transfer, complete the commercial rock lobster and giant crab direct sales quota docket; and

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

Penalty:

Grade 3 penalty.

(4) If more than 20 rock lobster are sold or transferred, and the sale or transfer occurs within the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –

(a) make an unloading report at least 2 hours before the sale or transfer occurs; and

(b) complete a commercial rock lobster and giant crab direct sales quota docket before the rock lobster are removed from the site of unloading; and

(c) give the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the person receiving the rock lobster; and

(d) tag the rock lobster in accordance with rule 93 before the rock lobster are removed from the site of unloading; and

(e) make a movement report before the rock lobster are removed from the site of unloading; and

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

Penalty:

Grade 3 penalty.

(5) If more than 20 rock lobster are sold or transferred, and the sale or transfer occurs outside the immediate proximity of the site of unloading, the holder of the fishing licence (rock lobster) must –

(a) make an unloading report at least 2 hours before the rock lobster are removed from the immediate proximity of the site of unloading; and

(b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of rock lobster unloaded before the rock lobster are removed from the site of unloading; and

(c) tag the rock lobster in accordance with rule 93 before the rock lobster are removed from the site of unloading; and

(d) complete the commercial rock lobster and giant crab direct sales quota docket at the time of the sale or transfer; and

(e) make a movement report before the rock lobster are removed from the site of unloading; and

(f) give the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket to the person receiving the rock lobster; and

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

Penalty:

Grade 3 penalty.

60. Return of rock lobster not sold or transferred

(1) This rule applies if –

(a) the holder of a fishing licence (rock lobster) removes rock lobster from the immediate proximity of the site of unloading in order to sell or transfer the rock lobster to a person other than the holder of a fish processing licence or handling licence; and

(b) the rock lobster, or any of the rock lobster, are not so sold or transferred.

(2) The holder of the fishing licence (rock lobster) must not return any of the rock lobster to the fishing vessel from which the rock lobster were unloaded unless that licensee has made a cancellation report.

Penalty:

Grade 2 penalty.

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

(a) complete the required sections of Part A of a commercial rock lobster and giant crab direct sales quota docket; and

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

Penalty:

Grade 2 penalty.

61. Export of rock lobster by aircraft or vessel

(1) This rule applies if the holder of a fishing licence (rock lobster) exports rock lobster by means of –

(a) an aircraft; or

(b) a vessel other than a fishing vessel.

(2) If the rock lobster are exported to a person other than the holder of a fish processing licence or handling licence, the holder of the fishing licence (rock lobster) must –

(a) make an unloading report at least 2 hours before the rock lobster are removed from the site of unloading; and

(b) declare, on a commercial rock lobster and giant crab direct sales quota docket, the total weight of rock lobster unloaded before the rock lobster are removed from the site of unloading; and

(c) make a movement report before the rock lobster are removed from the site of unloading; and

(d) ensure that Part B of the commercial rock lobster and giant crab direct sales quota docket is completed by a person other than the holder of the fishing licence (rock lobster) before the rock lobster are dispatched from the State; and

(e) ensure that the yellow sheet of the completed commercial rock lobster and giant crab direct sales quota docket travels with the consignment of rock lobster; and

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

Penalty:

Grade 3 penalty.

(3) If the rock lobster are exported to the holder of a fish processing licence or handling licence, the holder of the fishing licence (rock lobster) must –

- (a) make an unloading report at least 2 hours before the rock lobster are unloaded; and
- (b) complete Part A of a commercial rock lobster quota docket before the rock lobster are removed from the site of unloading; and
- (c) make a movement report before the rock lobster are removed from the site of unloading; and
- (d) ensure that Part B of the commercial rock lobster quota docket is completed by a person other than the holder of the fishing licence (rock lobster) before the rock lobster are dispatched from the State; and
- (e) ensure that the yellow sheet of the completed commercial rock lobster quota docket travels with the consignment of rock lobster; and
- (f) send the pink sheet of the completed commercial rock lobster quota docket to the Secretary within 48 hours after completing that docket.

Penalty:

Grade 3 penalty.

62. Unloading of rock lobster interstate from fishing vessel

(1) The holder of a fishing licence (rock lobster) must not unload rock lobster in another State from a fishing vessel, or cause or permit rock lobster to be unloaded in another State from a fishing vessel, unless –

- (a) the unloading is authorised by an endorsement on the licence; and
- (b) all the rock lobster are unloaded before another fishing trip is commenced; and
- (c) the rock lobster are sold only to the holder of a fish processing licence; and
- (d) the prescribed requirements have been complied with.

Penalty:

Grade 3 penalty.

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

- (a) the holder of the fishing licence (rock lobster), before leaving State waters, must have recorded, in the required section of Part A of the commercial rock lobster quota docket, the number of rock lobster held on the vessel at the time of leaving;
- (b) the holder of the fishing licence (rock lobster), before leaving State waters, must have made an interstate port of landing report;
- (c)
- (d)
- (e) the fishing vessel must have been fitted with a vessel monitoring system;

(f) the fishing vessel must have proceeded directly to the port of landing;

(g) the holder of the fishing licence (rock lobster) must have made an interstate port of landing report at least 12 hours before unloading any rock lobster at an interstate port of landing between the hours of 9 p.m. on any day and 6 a.m. the following day;

(h) the holder of the fishing licence (rock lobster) must have commenced unloading within one hour after the estimated time of unloading given in the interstate port of landing report made under paragraph (g).

(3) However, the prescribed requirements referred to in subrule (2)(a) and (c) do not apply to the holder of the fishing licence (rock lobster) if –

(a) that licensee has the Secretary's written approval to use alternative arrangements to those prescribed requirements; and

(b) the rock lobster have been dealt with in accordance with that approval.

(4) The holder of a fishing licence (rock lobster) who transports rock lobster to another State on a fishing vessel, or causes or permits rock lobster to be transported to another State on a fishing vessel, must not unload rock lobster at any port of landing unless –

(a) a fisheries officer has removed the seals from the holding tank or well of the fishing vessel; or

(b) 30 minutes have elapsed after –

(i) the nominated time of unloading given in the interstate port of landing report made under subrule (2)(g); and

(ii) the fishing vessel has reached the port of landing; or

(c) an emergency situation exists.

Penalty:

Grade 3 penalty.

(5)

63. Sale or transfer of rock lobster from holding tank

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

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

(a) complete and issue, at the time of the sale or transfer, a commercial rock lobster and giant crab sales receipt to the person receiving the rock lobster; and

(b) keep a copy of that commercial rock lobster and giant crab sales receipt, in good condition, for at least 5 years; and

(c) unless the rock lobster are being exported or being sold or transferred to the holder of a fish processing or handling licence, tag the rock lobster in accordance with rule 93.

Penalty:

Grade 3 penalty.

Division 5 - Miscellaneous controls

64. Taking or possession of octopus

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

(a) take more than 100 kilograms of octopus during a fishing trip; or

(b) be in possession of more than 100 kilograms of octopus in State waters at any one time.

Penalty:

Grade 2 penalty.

64A. Taking or possession of inshore crab

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

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

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

Penalty:

Grade 2 penalty.

65. Taking or possession of giant crab

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

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (rock lobster) must not take more than 100 kilograms of giant crab during the period of the licence unless authorised to do so by another licence.

Penalty:

Grade 3 penalty.

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

(a) specify the weight of the giant crab sold or transferred on a commercial rock lobster quota docket; and

(b) send that commercial rock lobster quota docket to the Secretary; and

(c) give a commercial rock lobster and giant crab sales receipt to the holder of a handling licence or fish processing licence who receives any of the giant crab.

Penalty:

Grade 2 penalty.

(4) The holder of a fishing licence (rock lobster) who holds or stores any giant crab taken under the authority of that licence must keep records relating to the following:

(a) the number, form and weight of the giant crab held or stored;

(b) the place where the giant crab are held or stored.

Penalty:

Grade 3 penalty.

(5) The holder of a fishing licence (rock lobster) who sells giant crab taken under the authority of that licence must, for each such sale, keep records relating to the following:

(a) the time and date of the sale;

(b) the number, form and weight of giant crab sold;

(c) the number and weight of giant crab, if any, dispatched from Tasmania;

(d) for a sale of 6 or more giant crab, the name and address of the purchaser;

(e) the price or benefit gained from the sale.

Penalty:

Grade 3 penalty.

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

(1) This rule applies if the holder of a fishing licence (rock lobster) finds any dead rock lobster that are –

(a) on or from a fishing vessel; or

(b) in or from a fish cauf.

(2) The holder of the fishing licence (rock lobster) must, as soon as practicable after finding the dead rock lobster –

(a) record, in the appropriate place on the rock lobster catch record for the day of the find, the number or, if the exact number cannot be determined, estimated number of dead rock lobster; and

(b) if that number or estimated number is more than 20, advise a fisheries officer as soon as practicable.

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

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

(a) are taken not to have been unloaded; and

(b) are not to be deducted from any rock lobster fishing quota unit balance.

67. Transfer of rock lobster between vessels

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

(a) from one fishing vessel to another fishing vessel; or

(b) from a fishing vessel to another kind of vessel.

Penalty:

Grade 3 penalty.

68. Fishing in two jurisdictions

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

(a) use that fishing vessel to take rock lobster in State waters if it has been used to take rock lobster outside State waters since last leaving port; or

(b) be in possession of rock lobster taken outside State waters while undertaking a fishing trip in State waters for rock lobster; or

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

(d) leave port to undertake a fishing trip in State waters for rock lobster unless a leaving port report is made at least 2 hours before leaving port.

Penalty:

Grade 3 penalty.

69. Places where rock lobster may be held or stored

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

(a) on the fishing vessel used to take the rock lobster; or

(b) in a fish cauf specified for that purpose in the licence in accordance with rule 80; or

(c) in a holding tank specified for that purpose in the licence in accordance with rule 81; or

(d) at a place that the Secretary has approved in writing for the holding or storage of rock lobster by the licensee.

Penalty:

Grade 3 penalty.

70. Retention of rock lobster for personal use

(1) The holder of a fishing licence (rock lobster) must not retain for personal use, during a fishing trip, more than one rock lobster for each day of the fishing trip up to a total of 5 rock lobster during the whole fishing trip.

Penalty:

Grade 2 penalty.

(2) The holder of a fishing licence (rock lobster) who retains a rock lobster for personal use must record the rock lobster in the licensee's rock lobster catch record book before the rock lobster is unloaded from the fishing vessel used to take the rock lobster.

Penalty:

Grade 2 penalty.

(3) The holder of a fishing licence (rock lobster) who retains a rock lobster for personal use must mark that rock lobster in accordance with rule 36 before the rock lobster is removed from the site of unloading.

Penalty:

Grade 2 penalty.

(4) In this rule –

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

PART 5 - Fishing Apparatus

Division 1 - Rock lobster pots

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

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

Penalty:

Grade 3 penalty.

(2) An authorised person must not, in State waters, set or use or be in possession of a rock lobster pot during a closed season.

Penalty:

Grade 3 penalty.

(3) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (2) in respect of the possession of a rock lobster pot during a closed season if –

- (a)** the rock lobster pot is on a fishing vessel that –
 - (i)** is returning to a port of landing within 48 hours after the end of an open season; or
 - (ii)** is leaving a port within 48 hours before the commencement of an open season; or
 - (iii)** is in port or on an authorised mooring and not undertaking a fishing trip; or
- (b)** the licensee has the written approval of a fisheries officer to be in possession of the rock lobster pot during the closed season; or
- (c)** the rock lobster pot has no bait or bait-holding device and the licensee –
 - (i)** has the written approval of a fisheries officer to set a rock lobster pot of that kind; and
 - (ii)** is complying with the conditions of that approval.

(4) Also, an authorised person is not guilty of an offence under subrule (2) in respect of the setting or possession of a rock lobster pot in State waters during a closed season if the setting or possession occurs after 1 p.m. on the day immediately before the commencement of an open season.

(5) A person must not, in State waters, place rock lobster in a rock lobster pot, or take rock lobster from a rock lobster pot, before the pot is hauled to the surface of the water.

Penalty:

Grade 3 penalty.

(6) In this rule –

"authorised person" means –

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

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

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

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of a rock lobster pot if –

- (a) the rock lobster pot does not have bait or a bait-holding device; and
- (b) the licensee has the written approval of a fisheries officer to set a rock lobster pot of that kind; and
- (c) the licensee is complying with the conditions of that approval.

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

Penalty:

Grade 3 penalty.

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

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

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

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

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of a rock lobster pot if –

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

(i) adverse weather conditions; or

(ii) mechanical breakdown of, or structural damage to, the fishing vessel from which the rock lobster pot is set; or

(iii) illness or incapacity of the licensee; and

(b) the licensee notifies a fisheries officer in writing, within 48 hours after the rock lobster pot is set, that the rock lobster pot cannot be retrieved within that period and the reason why it cannot be so retrieved; and

(c) the licensee, within 48 hours after giving the notice referred to in paragraph (b), advises a fisheries officer of the arrangements made to retrieve the rock lobster pot; and

(d) the licensee ensures that the rock lobster pot is retrieved in accordance with such directions as the fisheries officer referred to in paragraph (c) may give the licensee for its retrieval.

(3) Also, the holder of a fishing licence is not guilty of an offence under subrule (1) in respect of a rock lobster pot if –

(a) the rock lobster pot does not have bait or a bait-holding device; and

(b) the licensee has the written approval of a fisheries officer to set a rock lobster pot of that kind; and

(c) the licensee is complying with the conditions of that approval.

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

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

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

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

(a) the rock lobster pots do not have bait or a bait-holding device; and

(b) the licensee has the written approval of a fisheries officer to set rock lobster pots of that kind or, as the case may be, use rock lobster pots of that kind; and

(c) the licensee is complying with the conditions of that approval.

(4) Except with the authority of a fisheries officer, the holder of a fishing licence (rock lobster) must not, on a fishing vessel in State waters, set or use or be in possession of more rock lobster pots than the number of rock lobster pots specified in Schedule 2 for the length and tonnage specified for that vessel in the fishing licence (vessel) relating to that vessel.

Penalty:

Grade 3 penalty.

(5) For the purposes of subrule (4), the length and tonnage of a vessel is to be determined according to a method approved by the Secretary.

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

(1) A person must not set or use a rock lobster pot –

(a) in the D'Entrecasteaux Channel; or

(b) in the River Derwent; or

(c) in Georges Bay, St Helens, west of the line of longitude of the end of the training wall situated at the entrance to Georges Bay; or

(d) in Taroona waters; or

(e) within 300 metres of the area known as the Blow Hole on the eastern side of King Island.

Penalty:

Grade 3 penalty.

(2) In this rule –

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

76. Restrictions on configuration of rock lobster pots

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

Penalty:

Grade 3 penalty.

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

(a) a rock lobster pot must have –

(i) horizontal dimensions that are no more than 1 250 millimetres by 1 250 millimetres; and

(ii) a vertical height of no more than 750 millimetres;

(b) a rock lobster pot must –

(i) have only one neck or entrance; and

(ii) have only one chamber capable of trapping rock lobster; and

(iii) not contain anything likely to entangle rock lobster in the rock lobster pot;

(c) a neck or entrance on a rock lobster pot must be at least 200 millimetres in diameter;

(d) a rock lobster pot must have –

(i) at least one rectangular escape gap that is at least 57 millimetres high and at least 400 millimetres wide; or

(ii) at least 2 rectangular escape gaps, each of which is at least 57 millimetres high and at least 200 millimetres wide;

(e) an escape gap in a rock lobster pot must be located –

(i) on the side of the rock lobster pot so that the longer sides of the escape gap are generally parallel to the floor of the rock lobster pot and the lower internal edge of the escape gap is no more than 150 millimetres above the floor of the rock lobster pot; and

(ii) clear of any obstruction that is likely to restrict the movement of undersize rock lobster through the escape gap or otherwise impinge upon, or effectively reduce, the minimum required internal dimensions of the escape gap.

(3) In this rule –

"undersize rock lobster" means a rock lobster that has a carapace less than 110 millimetres long, as determined in accordance with [rule 15](#).

77. Marker buoy requirements for rock lobster pots

(1) A person must not set or use a rock lobster pot in State waters unless –

(a) a marker buoy is at all times attached to the rock lobster pot at all times by means of a line long enough for the marker buoy to float on the surface of the water; and

(b) the marker buoy –

(i) is spherical in shape; and

(ii) has a diameter of at least 195 millimetres; and

(iii) is specifically designed as a buoy.

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

(3) A distinguishing mark for the purposes of subrule (2) is to be at least 70 millimetres high and at least 12 millimetres wide.

(4) The owner or person in charge of a fishing vessel must ensure that –

(a) a distinguishing mark marked on a marker buoy for the purposes of subrule (2) remains clear and legible; and

(b) the marker buoy bears only that distinguishing mark.

Penalty:

Grade 1 penalty.

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

Penalty:

Grade 3 penalty.

(6) In this rule –

"**distinguishing mark**" has the same meaning as in the Fisheries Rules 1999.

Division 2 - Rock lobster rings

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

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

Penalty:

Grade 3 penalty.

(2) A person must not, in State waters, set or use or be in possession of a rock lobster ring having a ring, or hoop, that is more than one metre in diameter.

Penalty:

Grade 2 penalty.

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

Penalty:

Grade 3 penalty.

Division 3 - Fish caufs and holding tanks

79. Restrictions on attaching marker buoys to fish caufs

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

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

Penalty:

Grade 1 penalty.

80. Restrictions and requirements relating to fish caufs

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

- (a) be in possession of a fish cauf; or
 - (b) place any rock lobster in a fish cauf –
- unless the licence is endorsed for the use of a fish cauf.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (rock lobster) that is endorsed for the use of a fish cauf must not –

- (a) use more fish caufs than the total number of fish caufs specified in that licence; or
- (b) use a fish cauf that is not marked as specified in that licence; or
- (c) use a fish cauf anywhere other than a place specified in that licence; or
- (d) place in a fish cauf rock lobster that have been taken by another person.

Penalty:

Grade 2 penalty.

(3) The holder of a fishing licence (rock lobster) that is endorsed for the use of a fish cauf must mark the fish cauf with a marker buoy in accordance with rule 79.

Penalty:

Grade 2 penalty.

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

Penalty:

Grade 3 penalty.

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

- (a)** placing rock lobster in a fish cauf; or
- (b)** causing rock lobster to be placed in a fish cauf.

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

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

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

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

81. Restrictions and requirements relating to holding tanks

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

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (rock lobster) that is endorsed for the use of a holding tank must not place in a holding tank –

(a) rock lobster taken by another person; or

(b) rock lobster purchased or obtained from the holder of a fish processing licence or handling licence.

Penalty:

Grade 3 penalty.

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

(a) makes an unloading report at least 2 hours before the rock lobster are unloaded; and

(b) completes Part A of a commercial rock lobster quota docket before the rock lobster are removed from the immediate proximity of the site of unloading; and

(c) sends the pink sheet of that commercial rock lobster quota docket to the Secretary within 48 hours after completing Part A of that docket

Penalty:

Grade 3 penalty.

(4) The holder of a fishing licence (rock lobster) that is endorsed for the use of a holding tank must keep records relating to the following matters:

(a) the time and date of each placement of rock lobster in each holding tank;

(b) for each placement or removal of rock lobster in or from each holding tank, the number of rock lobster;

(c) the daily stock, by number, of rock lobster held in each holding tank.

Penalty:

Grade 3 penalty.

PART 6 - Reporting and tracking

Division 1 - Reports

82. Reporting service

(1) The Secretary may approve –

- (a) a reporting service to receive reports under these rules; and
- (b) the means by which such reports are to be made; and
- (c) the information to be provided in such reports.

(2) As soon as practicable after it receives a report under these rules, the reporting service is to issue the maker of the report with a report receipt number.

83. Unloading reports

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

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of the unloading of any rock lobster if –

- (a) the rock lobster are placed in a fish cauf; or
- (b) the rock lobster are sold or transferred to a person other than the holder of a fish processing licence or a handling licence and –
 - (i) the sale or transfer occurs within the immediate proximity of the site of unloading; and
 - (ii) no more than 20 rock lobster are sold or transferred; or
- (c) the rock lobster need to be unloaded urgently to avoid the possibility that they might die on account of a significant change in water quality brought about by unforeseen circumstances and the licensee makes an emergency unloading report within 30 minutes after the time of unloading; or
- (d) the rock lobster need to be unloaded urgently to ensure the safety of the fishing vessel and the licensee makes an emergency unloading report within 30 minutes after the time of unloading.

(3) Also, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of the unloading of 5 or fewer rock lobster for the licensee's personal use in accordance with rule 70.

(4) The holder of a fishing licence (rock lobster) who makes an unloading report under subrule (1) –

- (a) must not unload the rock lobster before the estimated time of unloading given in that report; and

(b) must commence unloading the rock lobster within 2 hours after the estimated time of unloading given in that report.

Penalty:

Grade 3 penalty.

84. Alternative reporting arrangements

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

(a) the licence is endorsed for alternative arrangements relating to that reporting requirement; and

(b) the licensee complies with the terms of the endorsement.

85. Making reports

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

Penalty:

Grade 3 penalty.

86. Cancellation reports

If a person who makes a report to the reporting service does not carry out the activity to which the report relates, the person must make a cancellation report within 2 hours after the activity was supposed to have been carried out.

Penalty:

Grade 3 penalty.

87. False, misleading or incomplete information

A person must not –

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

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

Penalty:

Grade 3 penalty.

88. Provision of receipt numbers

A person who is issued with a report receipt number by the reporting service must provide that number to a fisheries officer when required to do so.

Penalty:

Grade 2 penalty.

Division 2 - Dockets

89. Measurement of weights

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

Penalty:

Grade 3 penalty.

90. Conflicts of interest

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

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

Division 3 - Records

91. Records of general information

(1) The holder of a fishing licence (rock lobster) must make and retain records within Tasmania that enable the following information to be determined in respect of operations conducted under the licence and in respect of business activities arising in connection with those operations:

- (a) the date of each sale or consignment of rock lobster made by or on behalf of that licensee;
- (b) the exact weight of rock lobster sold or consigned;
- (c) the form of rock lobster sold or consigned;
- (d) the price or consideration received for rock lobster;

(e) for sales or consignments of 21 or more rock lobster at any one time, the name and address of the purchaser or consignee of the rock lobster.

Penalty:

Grade 3 penalty.

(2) However, the holder of a fishing licence (rock lobster) is not guilty of an offence under subrule (1) in respect of the retention of a record outside Tasmania if that licensee –

(a) resides outside Tasmania; and

(b) has the written approval of the Secretary to retain the record outside Tasmania; and

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

92. Records of rock lobster catch

(1) The holder of a fishing licence (rock lobster) must complete a rock lobster catch record –

(a) on each day during which fishing occurs; and

(b) before that licensee –

(i) first disembarks from a fishing vessel after a fishing trip; or

(ii) leaves State waters with rock lobster on a fishing vessel.

Penalty:

Grade 2 penalty.

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

Penalty:

Grade 2 penalty.

PART 7 - Miscellaneous

93. Tagging requirements

(1) A person must not be in possession of rock lobster at a place where the business of selling fish is carried on, either by wholesale or retail, unless –

(a) a rock lobster tag is securely fastened to a horn of each rock lobster; or

(b) each rock lobster is tagged in another manner approved by the Secretary.

Penalty:

Grade 3 penalty.

(2) A person must not be in possession of, or sell or purchase, rock lobster for consumption in Tasmania unless –

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

Penalty:

Grade 3 penalty.

(3) However, subrule (2) does not apply to the holder of a fishing licence (rock lobster) in respect of any rock lobster if –

- (a)** that licence is endorsed for the use of a holding tank; and
- (b)** the rock lobster are being held in a holding tank in order to be sold directly to persons other than the holders of fish processing licences or handling licences; and
- (c)** each rock lobster that is so sold is tagged in accordance with that subrule as soon as the rock lobster is removed from the holding tank.

(4) Also, subrules (1) and (2) do not apply to a person in respect of any rock lobster if –

- (a)** the person is the holder of a fishing licence (rock lobster) and is –
 - (i)** in possession of the rock lobster in State waters; or
 - (ii)** in possession of the rock lobster in a holding tank; or
 - (iii)** in possession of 5 or fewer rock lobster retained in accordance with rule 70; or
- (b)** the person is the holder of a fish processing licence or handling licence and is transporting, holding or storing the rock lobster; or
- (c)** the person is the holder of a fish processing licence and is processing the rock lobster; or
- (d)** the person is the holder of a recreational fishing licence and is in possession of the rock lobster marked in accordance with rule 36; or
- (e)** the person is an Aborigine and is engaging in an Aboriginal activity.

(5) The holder of a fishing licence (rock lobster) must not sell or transfer rock lobster to a person other than the holder of a fish processing licence or handling licence unless, before the rock lobster are removed from the immediate proximity of the site of unloading –

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

Penalty:

Grade 3 penalty.

(6) However, subrule (5) does not apply to the holder of a fishing licence (rock lobster) in respect of any rock lobster if the rock lobster are being –

(a) stored for the purposes of export; or

(b) transported for the purposes of export.

(7) If the holder of a fish processing licence or handling licence (in this subrule referred to as "the vendor") sells rock lobster to a person in Tasmania other than the holder of a fish processing licence or handling licence, the vendor must ensure that each rock lobster so sold is tagged in accordance with subrule (5) before the rock lobster leaves the vendor's possession.

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 2 penalty.

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

Penalty:

Grade 3 penalty.

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

Penalty:

Grade 3 penalty.

(11) A person must not be in possession of a closed rock lobster tag that –

(a) is not fastened to a rock lobster; or

(b) has not been defaced in accordance with subrule (10).

Penalty:

Grade 3 penalty.

(12) In this rule –

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

- (a) in an approved form; and
- (b) stamped with a distinctive number allocated by the Secretary.

94. Vessel monitoring systems

(1) The Secretary, by notice in writing served on the holder of a fishing licence (rock lobster), may direct the licence holder to fit a vessel monitoring system to a specified fishing vessel.

(2) The provisions of *Part 3 of the Fisheries Rules 1999* relating to a vessel monitoring system, other than rule 32 of those rules, apply to the holder of a fishing licence (rock lobster) as if –

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

95. Transitional provisions

(1) A public notice under the former rules that had force and effect for the purposes of the rock lobster fishery immediately before the commencement day is taken to be a public notice under and for the purposes of these rules, having force and effect according to its terms until whichever of the following first occurs:

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

(2) The Minister is to ensure that a quantity of rock lobster taken during the terminating quota year under a fishing licence (rock lobster) in excess of the quantity specified in that licence is deducted from the fishing quota unit balance for that licence for the first new quota year as follows:

- (a) for a quantity of 20 kilograms or less, a deduction equivalent to the amount of the quantity taken;
- (b) for a quantity greater than 20 kilograms and not greater than 45 kilograms, a deduction of 20 kilograms plus 1.5 kilograms for each kilogram taken over 20 kilograms;
- (c) for a quantity greater than 45 kilograms and not greater than 70 kilograms, a deduction of 58 kilograms plus 2 kilograms for each kilogram taken over 45 kilograms;
- (d) for a quantity greater than 70 kilograms and not greater than 100 kilograms, a deduction of 108 kilograms plus 3 kilograms for each kilogram taken over 70 kilograms;
- (e) for a quantity greater than 100 kilograms, a deduction of 198 kilograms.

(3) A deduction from a fishing quota unit balance under subrule (2) may exceed the quantity specified in paragraph (e) of that subrule if the holder of the relevant fishing licence (rock lobster) demonstrates that the excess quantity of rock lobster was taken unintentionally.

(4) In a case to which subrule (3) applies, the Minister is to ensure that an amount equivalent to the quantity of the rock lobster taken in excess of the quantity specified in subrule (2)(e) is deducted from the fishing quota unit balance for the relevant fishing licence (rock lobster) for the first new quota year.

(5) In this rule –

"**first new quota year**" means the quota year immediately following the terminating quota year;

"**former rules**" means the *Fisheries (Rock Lobster and Giant Crab) Rules 2001*;

"**terminating quota year**" means the quota year in progress on the commencement day.

96. Infringement notice offences and penalties

For section 234 of the Act –

(a) an offence under a rule specified in Schedule 3 is prescribed as an offence in respect of which an infringement notice may be served; and

(b) the penalty specified in that Schedule in respect of that offence is the applicable penalty for that offence.

SCHEDULE 1 - Ports of landing

Rule 3

1. The following are ports of landing for north-western Tasmania:

(a) Bluff Hill Point;

(b) within 200 metres of Couta Rocks;

(c) the public wharf at Currie Harbour;

(d) Devonport;

(e) within Granville Harbour and Sting Ray Bay;

(f) within Grassy Harbour;

(g) within Nelson Bay;

(h) the public unloading wharf at Smithton;

(i) Fisherman's Wharf at Stanley;

(j) the main public wharf, Fisherman's Wharf and Strahan Fisheries Wharf at Strahan;

(k) within 200 metres of Temma Harbour;

(l) Fisherman's Wharf at Wynyard.

2. The following are ports of landing for north-eastern Tasmania:

(a) Waubs Bay ramp and the public wharf at Bicheno;

(b) the boat ramp at Binalong Bay;

(c) the public wharf at Bridport;

(d) the public wharf at George Town;

(e) Killiecrankie;

(f) the public wharf at Lady Barron;

(g) North East River;

(h) Musselroe River;

(i) the public wharf, Pike's Jetty and Finger Pier at St Helens;

(j) the public wharf at Whitemark;

(k) Palana;

(l) the public wharf at Beauty Point.

3. The following are ports of landing for southern Tasmania:

(a) the public wharf at Coles Bay;

(b) the public wharf at Dover;

(c) Blackman Bay Wharf at Dunalley;

(d) the public wharf at Eaglehawk Neck;

(e) Gordon Jetty;

(f) King Pier, Macquarie Wharf and Victoria Dock at Hobart;

(g) the public wharf at Kettering;

(h) North West Bay Marina and the public wharf at Margate;

(i) the public wharf and the Storm Bay Seafoods wharf at Nubeena;

(j) the public wharf at Port Arthur;

(k) the public wharf at Recherche Bay;

- (l) the public wharf at Southport;
- (m) the town wharf, the wharf opposite the town wharf and the deepwater wharf at Triabunna;
- (n) the public wharf at Woodbridge;
- (o) the public jetty at Little Swanport.

4. The following are ports of landing for Victoria:

- (a) the public wharf at Apollo Bay;
- (b) the public wharf at Portland;
- (c) the public wharf at Port Welshpool;
- (d) the public wharf at San Remo;
- (e) the public wharf at Queenscliff;
- (f) the public wharf at Victoria Dock, Melbourne.

SCHEDULE 2 - Number of rock lobster pots

Rule 74(4)

PART 1 - Number of rock lobster pots according to length of vessel

	Length of vessel	Maximum no. of rock lobster pots
1.	Under 6 metres	0
2.	6 metres and under 7 metres	19
3.	7 metres and under 8 metres	21
4.	8 metres and under 9 metres	23
5.	9 metres and under 10 metres	25
6.	10 metres and under 10.5 metres	28
7.	10.5 metres and under 14 metres	34
8.	14 metres and under 15 metres	36
9.	15 metres and under 16 metres	38
10.	16 metres and under 17 metres	41
11.	17 metres and under 18 metres	46
12.	18 metres and over	50

PART 2 - Number of rock lobster pots according to tonnage of vessel

	Tonnage of vessel	Maximum no. of rock lobster pots
1.	Under 5 tonnes	0
2.	5 tonnes and under 6 tonnes	19
3.	6 tonnes and under 7 tonnes	20
4.	7 tonnes and under 8 tonnes	21
5.	8 tonnes and under 9 tonnes	23
6.	9 tonnes and under 10 tonnes	24
7.	10 tonnes and under 11 tonnes	25
8.	11 tonnes and under 12 tonnes	26
9.	12 tonnes and under 13 tonnes	28
10.	13 tonnes and under 14 tonnes	29
11.	14 tonnes and under 15 tonnes	30
12.	15 tonnes and under 16 tonnes	31
13.	16 tonnes and under 17 tonnes	33
14.	17 tonnes and under 18 tonnes	34
15.	18 tonnes and under 19 tonnes	35
16.	19 tonnes and under 20 tonnes	36
17.	20 tonnes and under 21 tonnes	38
18.	21 tonnes and under 22 tonnes	39
19.	22 tonnes and under 23 tonnes	40
20.	23 tonnes and under 24 tonnes	42
21.	24 tonnes and under 25 tonnes	43
22.	25 tonnes and under 26 tonnes	44
23.	26 tonnes and under 27 tonnes	45
24.	27 tonnes and under 28 tonnes	46
25.	28 tonnes and under 29 tonnes	48
26.	29 tonnes and under 30 tonnes	49
27.	30 tonnes and over	50

SCHEDULE 3 - Infringement Notice Offences and Penalties

Rule 96

	Rule	Penalty units
1.	9	4
2.	11(1)	5

3.	11(2)	5
4.	11(3)	5
5.	12(1)	5
6.	12(2)	5
7.	12(3)	5
8.	13(1)	5
9.	14(1)	4
10.	14(2)	4
11.	14(3)	4
12.	15(1)	4
13.	16	3
14.	17(a)	5
15.	17(b)	5
16.	17(c)	5
17.	17(d)	5
18.	18(1)	2
19.	19	2
20.	20	5
21.	21	2
22.	22(1)	4
23.	22(3)	2
24.	22(4)	2
25.	22(5)	4
26.	22(6)	4
27.	22(7)	4
28.	23(a)	2
29.	23(b)	3
30.	24(1)	4
31.	24(2)	3
32.	24(3)	2
33.	25(1)	2
34.	25(2)	3
35.	30(3)	1
36.	30(4)	1
37.	31(1)	1
38.	33(2)	1
39.	34	2
40.	35(2)	1
41.	36(1)	1
42.	36(2)	1
43.	36(3)	1
44.	37	4
45.	38(1)	5
46.	38(2)	5

47.	42(1)	2
48.	42(2)	2
49.	43(1)	3
50.	43(3)	3
51.	45(5)	2
52.	49	5
53.	50	2
54.	52(2)	5
55.	56(1)	4
56.	57(2)	5
57.	58(2)	3
58.	58(3)	3
59.	59(2)	3
60.	59(3)	3
61.	59(4)	5
62.	59(5)	5
63.	60(2)	3
64.	60(3)	3
65.	61(2)	5
66.	61(3)	5
67.	62(1)	5
68.	62(4)	5
69.	63(2)	5
70.	64	2
71.	65(1)	4
72.	65(2)	4
73.	65(3)	4
74.	65(4)	4
75.	65(5)	4
76.	66(2)	3
77.	66(3)	3
78.	67	5
79.	68	5
80.	69	5
81.	70(1)	5
82.	70(2)	5
83.	70(3)	5
84.	71(1)	3
85.	71(2)	5
86.	71(5)	2
87.	72(1)	3
88.	73(1)	2
89.	74(1)	3
90.	74(2)	3

91.	74(4)	3
92.	75(1)	3
93.	76(1)	2
94.	77(1)	2
95.	77(2)	2
96.	77(4)	2
97.	77(5)	2
98.	78(1)	2
99.	78(2)	2
100.	78(3)	2
101.	79	2
102.	80(1)	4
103.	80(2)	4
104.	80(3)	2
105.	80(4)	4
106.	80(5)	2
107.	80(6)	4
108.	80(7)	4
109.	80(8)	4
110.	80(9)	4
111.	81(1)	4
112.	81(2)	4
113.	81(3)	4
114.	81(4)	4
115.	83(1)	3
116.	83(4)	3
117.	85	1
118.	86	1
119.	87	3
120.	88	1
121.	89	4
122.	90(1)	2
123.	90(2)	2
124.	91(1)	3
125.	92(1)	3
126.	92(2)	3
127.	93(1)	2
128.	93(2)	2
129.	93(5)	2
130.	93(7)	2
131.	93(8)	2
132.	93(9)	3
133.	93(10)	1
134.	93(11)	1

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Table Of Amendments

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Fisheries (Rock Lobster) Rules 2006	S.R. 2006, No. 8	28.2.2006
Legislation Publication Act 1996	No. 17 of 1996	13.9.2006
Fisheries (Rock Lobster) Amendment Rules 2010	S.R. 2010, No. 2	12.1.2010
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