

Fisheries (Scallop) Rules 2010

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

23 December 2009

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Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

These rules may be cited as the Fisheries (Scallop) Rules 2010.

2. Commencement

These rules take effect on 1 March 2010.

3. Interpretation

(1) In these rules –

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

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

"**Bass Strait Central Zone Scallop Fishery**" means the fishery in Commonwealth waters managed by the Australian Fisheries Management Authority as defined under the Offshore Constitutional Settlement entered into between the Commonwealth and the States;

"**Bass Strait scallop fisher**" means a person holding a Commonwealth authority to take scallops from Commonwealth waters;

"**Bass Strait scallop trip**" means a fishing trip that a Bass Strait scallop fisher takes to the Bass Strait Central Zone Scallop Fishery in accordance with the requirements of his or her Commonwealth authority;

"**closed area**" –

(a) for the commercial scallop fishery, means an area of State waters that is closed to the commercial scallop fishery under rule 16(2); and

(b) for the non-commercial scallop fishery, means an area of State waters determined by the Minister to be closed to the non-commercial scallop fishery under rule 12(1)(a);

"**closed season**" –

(a) for the commercial scallop fishery, has the meaning given in rule 15(2); and

(b) for the non-commercial scallop fishery, means the period specified in rule 11(b) or such other period determined by the Minister under rule 11;

"commercial scallop fishery" means the part of the scallop fishery comprising the taking or possession of scallops for commercial purposes;

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

"deactivate", in relation to a fishing licence, means to make the licence subject to a condition that prohibits the use of the licence –

(a) for a period specified in the condition; or

(b) from a date and time specified in the condition;

"fishing period" means a fishing period determined under rule 15;

"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 30 and 33) a person who has approval to use the licence under section 87(2) of the Act;

"immediate proximity", in relation to any place, means –

(a) within 100 metres of that place; or

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

"land" means to bring scallops ashore or in contact with a pier, jetty or other artificial extension of land;

"licence quota amount" – see rule 20(4);

"MAST" means the Marine and Safety Authority established under the Marine and Safety Authority Act 1997;

"minimum size" – see Schedule 5;

"non-commercial scallop fishery" means the part of the scallop fishery comprising the following activities:

(a) the taking or possession of scallops by the holder of a recreational scallop licence under the authority of that licence;

(b) the taking or possession of scallops by an Aborigine engaged in an Aboriginal activity;

"open season" –

(a) for the commercial scallop fishery, means the open season determined under rule 15(1); and

(b) for the non-commercial scallop fishery, means the period specified in rule 11(a) or such other period determined by the Minister under rule 11;

"processing premises" means a place, vessel or vehicle for which a fish processing licence is in force;

"quota year" means the period beginning on 1 March and ending at midnight on the last day of February in the following year;

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

"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 that fishing licence;

"reporting service" means an approved service under rule 41(1);

"research quota unit" means an entitlement to take scallops in accordance with rule 22(1);

"scallop" means fish of the species –

(a) *Equichlamys bifrons* (commonly known as queen scallop); or

(b) *Pecten fumatus* (commonly known as commercial scallop); or

(c) *Mimachlamys asperimus* (commonly known as doughboy scallop);

"scallop dredge" – see rule 34;

"scallop dredging prohibited area" means an area of State waters specified in Column 2 (and as described in Column 3) of the table in Schedule 2;

"scallop meat" means any portion of a scallop that is –

(a) removed from an enclosing shell; or

(b) not attached or fastened to a shell;

"scallop quota docket" means a docket relating to the unloading of scallops that is part of the records required to be kept under the Act;

"scallop quota unit" – see rule 20(1);

"scallop spat" – see clause 2 of Part 1 of Schedule 5;

"scallop survey" means a scallop survey approved under rule 24;

"scallop vessel exclusion zone" means a specified area of State waters determined to be a scallop vessel exclusion zone under rule 16(4);

"site of unloading" means the place where any scallops taken in State waters are first unloaded, whether it be –

(a) on land; or

(b) on a wharf, jetty or other structure connected to land;

"unloading" means causing or permitting scallops to be taken off a fishing vessel;

"vessel monitoring system" has the same meaning as in rule 3 of the Fisheries Rules 2009;

"whole scallop" means a scallop that has not been removed from its shell;

"wild", in relation to the location of any species, or kind of fish, means any waters other than those to which a marine farming licence specifying that species or kind of fish relates.

(2) In these rules, unless the contrary intention appears –

(a) a reference to a licensee's scallop quota units is taken not to include the licensee's research quota units; and

(b) a reference to a licensee's licence quota amount is taken not to include the amount, if any, of scallops that the licensee may take under a research quota unit.

(3) For the purposes of these rules, a fishing trip is taken to have commenced when the vessel being used for the fishing trip departs from a public wharf or authorised mooring and to have ended when the vessel returns to a public wharf or authorised mooring.

(4) In these rules, a reference to a "port of landing" includes –

(a) a wharf provided for public use at a port specified in Schedule 1; and

(b) a port (not specified in Schedule 1) where the holder of a fishing licence (scallop) is authorised, by that licence, to unload scallops.

(5) In these rules, a reference to a fishing licence (recreational scallop) is taken to include a reference to a fishing licence (recreational scallop dive).

4. Application of rules

These rules apply to the fishery for scallop in State waters (the "scallop fishery").

5. Duration of rules

These rules expire on 28 February 2020.

6. Consultation arrangements

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

(a) any area where fishing may occur; and

(b) any matter relating to the characteristics of fish; and

(c) any opening and closing of the scallop fishery; and

(d) any apparatus; and

(e) limits on taking and possessing fish.

7. Classes of fishing licence

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

(a) class scallop, fishing licence (scallop);

(b) class recreational, fishing licence (recreational scallop);

(c) class vessel, fishing licence (vessel);

- (d) class personal, fishing licence (personal);
- (e) class commercial dive, fishing licence (commercial dive);
- (f) class scallop spat collection, fishing licence (scallop spat collection).

PART 2 - General Management of Fishery

8. Taking or possessing scallops during open season

(1) A person must not, in State waters, take, or be in possession of scallops, during an open season unless –

- (a) the person is –
 - (i) the holder of a fishing licence (scallop); and
 - (ii) authorised to participate in the scallop fishery during that open season; or
- (b) the person is the holder of a fishing licence (recreational scallop); or
- (c) the person is an Aborigine engaged in an Aboriginal activity.

Penalty:

Grade 3 penalty.

(2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of –

- (a) a marine farming licence authorising the marine farming of scallops; or
- (b) a fishing licence (scallop spat collection).

9. Taking scallops smaller than minimum size

A person must not take scallops that are smaller than the minimum size from the wild unless –

- (a) the person is the holder of a fishing licence (scallop spat collection) and takes only scallop spat; or
- (b) the person is the holder of a fishing licence (scallop) and the scallops taken that are smaller than the minimum size constitute no more than 15% of the total amount of scallops taken by the person; or
- (c) the person is complying with a marine farming licence authorising the marine farming of scallops.

Penalty:

Grade 3 penalty.

10. Possessing scallops smaller than minimum size

A person must not be in possession of scallops that are smaller than the minimum size unless –

- (a) the person is the holder of a fishing licence (scallop spat collection) and is in possession only of scallop spat; or
- (b) the person is the holder of a fishing licence (scallop) and the scallops that are smaller than the minimum size constitute no more than 15% of the total amount of scallops in the person's possession; or
- (c) the person has bought or received the scallops that are smaller than the minimum size from a fish merchant or retail outlet; or
- (d) the person is complying with a marine farming licence authorising the marine farming of scallops.

Penalty:

Grade 3 penalty.

PART 3 - Non-commercial Scallop Fishery

11. Closed and open seasons for non-commercial scallop fishery

Unless the Minister, by public notice, determines otherwise –

- (a) the open season for the non-commercial scallop fishery is the period commencing on the Saturday immediately preceding Good Friday in a year and ending at midnight on 31 July in the same year; and
- (b) the closed season for the non-commercial scallop fishery is the period commencing on 1 August in a year and ending at midnight on the Friday immediately preceding Good Friday in the following year.

12. Closed and open areas for non-commercial scallop fishery

(1) The Minister, by public notice, may determine –

- (a) a specified area of State waters to be closed to the non-commercial scallop fishery; or
- (b) a specified area of State waters to be closed to the non-commercial scallop fishery for a specified species of scallop.

(2) All areas of State waters that are not determined to be closed under subrule (1)(a) or subrule (1)(b) are open to the non-commercial scallop fishery for all species of scallop.

(3) An area of State waters that is closed under subrule (1)(b) for a specified species of scallop is open to the non-commercial scallop fishery for scallop other than the specified species of scallop to which the closure relates.

(4) If a public notice under this rule refers to an area described in Schedule 3, the description of that area in that Schedule is taken to apply for the purposes of the notice.

13. Restriction on taking or possessing scallops for non-commercial scallop fishery

A person who is not the holder of a fishing licence (scallop) must not –

- (a) take scallops from State waters during the closed season for the non-commercial scallop fishery; or

(b) be in possession of scallops in any area of State waters during the closed season for the non-commercial scallop fishery; or

(c) during the open season for the non-commercial scallop fishery, take scallops in an area determined to be closed to the non-commercial scallop fishery under rule 12(1)(a); or

(d) during the open season for the non-commercial scallop fishery, take scallops of a species and in an area determined to be closed to the non-commercial scallop fishery under rule 12(1)(b); or

(e) during the open season for the non-commercial scallop fishery, be in possession of scallops while swimming or diving in a closed area for the non-commercial scallop fishery.

Penalty:

Grade 3 penalty.

14. Maximum amount of scallops for non-commercial scallop fishery

(1) A person who is not the holder of a fishing licence (scallop) must not, in any one day in State waters, take, or be in possession of, more than –

(a) 50 scallops; or

(b) if the Minister by public notice has set a lower number of scallops for the purposes of this subrule, that lower number of scallops.

Penalty:

Grade 3 penalty.

(2) A person must not be in possession of more than 100 whole scallops unless the person is the holder of a licence that authorises the person to be in possession of more than that number of whole scallops.

Penalty:

Grade 3 penalty.

(3) A person must not be in possession of more than 3 kilograms of scallop meat unless the person is the holder of a licence that authorises the person to be in possession of more than 3 kilograms of scallop meat.

Penalty:

Grade 3 penalty.

(4) It is a defence in proceedings for an offence under subrules (2) and (3) if the defendant establishes that the scallops or scallop meat were purchased from a fish merchant or retail outlet.

(5) It is also a defence in proceedings for an offence under subrule (3) if the defendant establishes that the scallop meat consisted of not more than 100 scallops or such higher number of scallops that the defendant was entitled to possess under the authority of his or her licence.

PART 4 - Commercial Scallop Fishery

Division 1 - Closed seasons and closed areas

15. Closed and open seasons for commercial scallop fishery

(1) The Minister, by public notice, may determine –

(a) the dates of the open season for the commercial scallop fishery; and

(b) the number of fishing periods, if any, that will make up the open season for the commercial scallop fishery; and

(c) if fishing periods are determined under paragraph (b), the dates of each of those fishing periods.

(2) The closed season for the commercial scallop fishery is taken to be the season or periods that fall outside the open season determined under subrule (1)(a).

16. Closed and open areas for commercial scallop fishery

(1) The Minister, by public notice, may –

(a) determine specified areas of State waters to be open to the commercial scallop fishery; and

(b) determine specified areas of State waters to be open to the commercial scallop fishery for a method of fishing; and

(c) specify the amount of scallops that may be taken or possessed from an area determined to be open under paragraph (a) or (b).

(2) All areas of State waters that are not determined to be open under subrule (1)(a) or open for a method of fishing under subrule (1)(b) are closed to the commercial scallop fishery.

(3) An area of State waters that is determined to be open for a method of fishing under subrule (1)(b) is closed to the commercial scallop fishery for all methods of fishing other than the method to which the determination relates.

(4) The Minister, by public notice, may also determine specified areas of State waters to be scallop vessel exclusion zones.

17. Restriction on taking scallops during closed season for commercial scallop fishery

(1) The holder of a fishing licence (scallop) must not take scallops from State waters during a closed season for the commercial scallop fishery.

Penalty:

Grade 3 penalty.

(2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

18. Restriction on possessing scallops during closed season for commercial scallop fishery

(1) A person must not be in possession of scallops during a closed season for the commercial scallop fishery.

Penalty:

Grade 3 penalty.

(2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that the scallops in respect of which the offence is alleged to have been committed were –

(a) imported into the State; or

(b) taken, bought or sold –

(i) during an open season for the commercial scallop fishery; or

(ii) under a Commonwealth authority to take scallops from Commonwealth waters; or

(iii) as part of a scallop survey; or

(c) in the defendant's possession –

(i) during an open season for the commercial scallop fishery; or

(ii) under a Commonwealth authority to take scallops from Commonwealth waters; or

(d) taken during the open season for the non-commercial scallop fishery by –

(i) the holder of a recreational scallop licence; or

(ii) an Aborigine engaged in an Aboriginal activity.

(3) It is also a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of –

(a) a marine farming licence authorising the marine farming of scallops; or

(b) a fishing licence (scallop spat collection).

19. Restriction on taking or possessing scallops in closed area for commercial scallop fishery

(1) The holder of a fishing licence (scallop) must not take scallops in an area that is closed to the commercial scallop fishery under rule 16(2).

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (scallop) must not take scallops in an area and by a method of fishing that is closed to the commercial scallop fishery under rule 16(3).

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (scallop) must not, in a specified area of State waters, take or be in possession of more than the amount of scallops specified by the Minister under rule 16(1)(c) for that area of State waters.

Penalty:

Grade 3 penalty.

(4) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

Division 2 - Catch controls

20. Maximum amount of scallops for commercial scallop fishery

(1) The maximum amount of scallops that may be taken for each scallop quota unit in a fishing licence (scallop) in a quota year is –

(a) 400 kilograms; or

(b) such higher amount as the Minister, by public notice, may set for the quota year.

(2) The maximum percentage of scallop quota units that may be taken by the holder of a fishing licence (scallop) in a quota year is –

(a) 100%; or

(b) such lesser percentage as the Minister, by public notice, may set for the quota year.

(3) The holder of a fishing licence (scallop) must not, during a quota year, take more than the holder's licence quota amount for the quota year as calculated under subrule (4).

Penalty:

Grade 3 penalty.

(4) A licence holder's licence quota amount for a quota year is the amount, in kilograms, obtained by applying the following formula:

$$\text{LQA} = \text{A} \times \text{B} \times \text{C} \%$$

Where –

"LQA" is the licence holder's licence quota amount for a quota year;

"A" is 400 kilograms or such higher amount as may be determined under subrule (1)(b) for the quota year;

"B" is the number of scallop quota units held by the licence holder, including any that have been temporarily transferred to the holder, for the quota year;

"C" is 100% or such lesser percentage as may be determined under subrule (2)(b) for the quota year.

(5) The holder of a fishing licence (scallop) is not guilty of an offence under subrule (3) if –

(a) the holder's licence quota amount for the quota year is not exceeded by more than 15 000 kilograms; and

(b) the deduction under rule 21(1) in respect of the excess licence quota amount for the quota year is made before the start of the open season for the commercial scallop fishery immediately following the end of that quota year.

(6) The Minister, by public notice, may specify for each fishing period or for a number of fishing periods in aggregate –

(a) the proportion of the licence quota amount that may be taken during that fishing period or fishing periods in aggregate; and

(b) the maximum amount of scallops that the holder of a fishing licence (scallop) may take, or be in possession of on a fishing vessel, during a fishing trip.

(7) The holder of a fishing licence (scallop) must not in a fishing period or fishing periods in aggregate –

(a) take more than the proportion of the licence quota amount specified for the fishing period or fishing periods in aggregate by the Minister under subrule (6)(a); or

(b) during a fishing trip, take, or be in possession of on a fishing vessel, more scallops than the maximum amount specified under subrule (6)(b) for that fishing period or fishing periods in aggregate.

Penalty:

Grade 2 penalty.

(8) The holder of a fishing licence (scallop) is not guilty of an offence under subrule (7)(a) if –

(a) the amount of scallops taken in the fishing period or fishing periods in aggregate does not exceed the proportion of the licence quota amount specified under subrule (6)(a) by more than 15 000 kilograms; and

(b) the deduction under rule 21(2) in respect of the excess licence quota amount for the fishing period or periods in aggregate is made before the start of the open season for the commercial scallop fishery immediately following the open season in which that fishing period or periods occur.

(9) The holder of a fishing licence (scallop) is not guilty of an offence under subrule (7)(b) if –

(a) the amount of scallops taken or possessed during the fishing trip, in the fishing period or fishing periods in aggregate, does not exceed the maximum amount specified under subrule (6)(b) by more than 50%; and

(b) the deduction under rule 21(3) in respect of the excess quantity of scallops is made before the start of the open season for the commercial scallop fishery immediately following the open season in which that fishing period or periods occur.

21. Overrun provisions

(1) The Minister is to ensure that any quantity of scallops taken under a fishing licence (scallop) in a quota year, in excess of the licence quota amount for that quota year, is deducted in accordance with Part 1 of Schedule 4 from the licence quota amount for –

(a) the current quota year; or

(b) if the licence quota amount for the current quota year is insufficient to apply the deduction in full, the next quota year.

(2) The Minister is to ensure that any quantity of scallops taken under a fishing licence (scallop) in excess of the amount specified under rule 20(6)(a) for a fishing period or fishing periods in aggregate is deducted in accordance with Part 2 of Schedule 4 from the licence quota amount for the current quota year or the next quota year.

(3) The Minister is to ensure that any quantity of scallops taken under a fishing licence (scallop) in excess of the amount specified under rule 20(6)(b) for a fishing period or fishing periods in aggregate is deducted from the licence quota amount for the current quota year or the next quota year as follows:

(a) for a quantity equal to 20% or less of the amount specified under rule 20(6)(b), a deduction equivalent to the quantity taken;

(b) for a quantity greater than 20% and not more than 30% of the amount specified under rule 20(6)(b), a deduction equivalent to 2 times the quantity taken;

(c) for a quantity greater than 30% and not more than 50% of the amount specified under rule 20(6)(b), a deduction equivalent to 3 times the quantity taken.

(4) The Minister is to ensure that any quantity of scallops taken under a fishing licence (scallop) from a specified area of State waters in excess of the amount determined by the Minister under rule 16(1)(c) for that area is deducted in accordance with Part 1 of Schedule 4 from the licence quota amount for the current quota year or the next quota year.

(5) In this rule –

"**current quota year**", in respect of scallops taken under a fishing licence (scallop), means the quota year in which those scallops were taken;

"**licence quota amount**", for a licence holder for a quota year, means the amount determined under rule 20(4);

"**next quota year**" means the next quota year in which there is an open season for the commercial scallop fishery.

22. Research quota units

(1) The Secretary may allocate research quota units to the holder of a fishing licence (scallop) in lieu of payment for approved research undertaken by the licence holder.

(2) A research quota unit allocated under subrule (1) authorises the holder of the fishing licence (scallop) to take, for commercial purposes, the amount of scallops specified under subrule (3)(a).

(3) The Secretary is to specify –

(a) the amount of scallops that may be taken under a research quota unit; and

(b) the conditions under which those scallops may be taken.

(4) The holder of a fishing licence (scallop) who has been allocated a research quota unit under subrule (1) –

(a) must not take more than the amount specified under subrule (3)(a) for that research quota unit; and

(b) must comply with any conditions specified under subrule (3)(b).

Penalty:

Grade 3 penalty.

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

(6) The Secretary may, in the Secretary's discretion, transfer a research quota unit on a temporary basis.

(7) Unless approved by the Minister, the Secretary is not to allocate more than 100 tonnes of research quota units in a quota year.

23. Quota unit balance

(1) The holder of a fishing licence (scallop) must not take scallops for commercial purposes if the quota unit balance in relation to that licence is zero kilograms or less for the quota year.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (scallop) must keep, on the fishing vessel specified in the relevant fishing certificate, records for the fishing period that show –

(a) the quota unit balance for the licence after each unloading; and

(b) the quota unit balance for the licence before the commencement of each fishing trip.

Penalty:

Grade 3 penalty.

(3) In this rule –

"quota unit balance" means the sum of the portion of the licence quota amount and the portion of the total weight of research quota units specified in a fishing licence that remains uncaught.

24. Scallop surveys

(1) The Secretary may give the holder of a fishing licence (scallop) approval to conduct a scallop survey during a quota year.

(2) An approval under subrule (1) is to be in writing and is to specify the following:

- (a) the dates during which the survey is to be conducted;
- (b) the area where the survey is to be conducted;
- (c) the area, if any, where a scallop dredge may be deployed to conduct the survey;
- (d) the amount of scallops from the licensee's licence quota amount that may be taken and possessed during the scallop survey;
- (e) the data required to be collected during the scallop survey and the manner of recording that data and providing it to the Secretary;
- (f) such other information as the Secretary determines.

(3) An approval under subrule (1) is subject to the following conditions:

- (a) that the licensee collect, record and provide to the Secretary the required data;
- (b) unless specifically permitted in the approval, that the licensee not deploy a scallop dredge in a closed area for the commercial scallop fishery;
- (c) unless specifically permitted in the approval, that the licensee not enter a scallop vessel exclusion zone;
- (d) that the licensee, if and when requested, allow an approved person on board the fishing vessel to observe the scallop survey activities;
- (e) any other condition specified in the approval.

(4) The holder of a fishing licence (scallop) must not contravene or allow another person to contravene a condition of a scallop survey.

Penalty:

Grade 3 penalty.

25. Entering scallop vessel exclusion zone

(1) The holder of a fishing licence (scallop) must ensure that the vessel specified in the relevant fishing certificate does not enter a scallop vessel exclusion zone.

Penalty:

Grade 2 penalty.

(2) A Bass Strait scallop fisher undertaking a Bass Strait scallop trip must ensure that the fishing vessel used for the trip does not enter a scallop vessel exclusion zone.

Penalty:

Grade 2 penalty.

(3) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that –

(a) the safety of the vessel or crew would have been at risk had it not entered the scallop vessel exclusion zone; or

(b) at the relevant time, he or she was acting under the authority of a scallop survey.

(4) It is a defence in proceedings for an offence under subrule (2) if the defendant establishes that the safety of the vessel or crew would have been at risk had it not entered the scallop vessel exclusion zone.

(5) Subrule (1) does not apply to the holder of a fishing licence (scallop) while the fishing licence (scallop) is deactivated.

26. Taking scallops in scallop dredging prohibited area or shallow waters

(1) The holder of a fishing licence (scallop) must not take scallops in –

(a) a scallop dredging prohibited area; or

(b) State waters that are less than 20 metres deep.

Penalty:

Grade 3 penalty.

(2) Subrule (1) does not apply to the holder of a fishing licence (scallop) who takes scallops by hand collection or diving in a scallop dredging prohibited area if the Minister, under rule 16(1)(c), has determined that area to be open to the commercial scallop fishery for that method of fishing.

Division 3 - Commercial fishing licences

27. Authority of licence

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

(a) take the licence quota amount during a quota year; and

(b) take the weight of scallops equivalent to the research quota units specified in the licence; and

(c) use the fishing vessel specified in the relevant fishing certificate to take those scallops.

28. Carrying copy of licence

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

Penalty:

Grade 2 penalty.

29. Transferring licence

(1) The Minister may refuse to transfer a fishing licence (scallop) from one person to another unless –

- (a) the other person holds a fishing licence (vessel) and a transferable commercial fishing licence; or
- (b) the licence is transferred together with the associated fishing licence (vessel) and any other fishing licences specified in the relevant fishing certificate.

(2) The Minister is not to transfer a fishing licence (scallop) so that –

- (a) 2 or more fishing licences (scallop) are specified in one relevant fishing certificate; or
- (b) a person may, to take scallops, use a fishing vessel that is greater in length than the maximum vessel length permitted on the fishing licence (vessel) specified on the fishing certificate.

(3) In this rule –

"commercial fishing licence" means a licence to take fish for commercial purposes.

30. Restrictions on leasing, subleasing or lending licences

(1) The holder of a fishing licence (scallop) may only apply for approval under section 87 of the Act to allow another person to use the licence by means of a leasing, subleasing or lending agreement if at least 50 scallop quota units are held on that fishing licence (scallop).

(2) Subrule (1) does not apply if the fishing licence (scallop) is deactivated for the duration of the lease, sublease or loan.

31. Restriction on granting subsequent licences

(1) This rule applies if a person holding a fishing licence (scallop) –

- (a) allows the licence to expire; and
- (b) does not, within the period of 12 months commencing on the date of the expiry, apply under section 77 of the Act for the grant of a further licence of the same kind.

(2) The person is not eligible to be granted a further fishing licence (scallop).

Division 4 - Scallop quota units

32. Transferring units

(1) The Minister may transfer a scallop quota unit.

(2) The transfer may, in the Minister's discretion, be on a permanent or temporary basis.

(3) The Minister is not to transfer a scallop quota unit to a person who is not the holder of a fishing licence (scallop).

(4) If only 10 scallop quota units are held on a fishing licence (scallop), the Minister is not to transfer any scallop quota units unless –

- (a) they are transferred with the fishing licence (scallop) under rule 29; or

(b) the licence is surrendered to the Minister and the scallop quota units are transferred to the holder of another fishing licence (scallop).

(5) Subrule (4) does not apply to the transfer of scallop quota units on a temporary basis.

(6) The Minister is not to transfer on a temporary basis a scallop quota unit that has been wholly or partially caught.

33. Minimum and maximum holdings

(1) A person must not hold more than 6 separate fishing licences (scallop) at one time.

Penalty:

Grade 2 penalty.

(2) The number of scallop quota units specified in a fishing licence (scallop) is to be at least 10 and not more than 1 200.

(3) The holder of a fishing licence (scallop) must not hold more than 2 400 scallop quota units at one time.

Penalty:

Grade 2 penalty.

(4) The holder of a fishing licence (scallop) must not, in that capacity, receive any payment or benefit from more than 2 400 scallop quota units.

Penalty:

Grade 2 penalty.

(5) The Minister is to ensure that a fishing licence (scallop) with less than 50 scallop quota units held on it is deactivated.

(6) Subrule (5) does not apply to a fishing licence (scallop) if the holder of the licence held less than 50 scallop quota units at the commencement of the *Fisheries (Scallop) Rules 2000*.

PART 5 - Scallop Dredges

34. Definition of scallop dredge

(1) A scallop dredge is apparatus that is –

(a) designed for use, or capable of being used, for or in connection with the taking of scallops; and

(b) capable of being towed along the seabed by a vessel.

(2) A scallop dredge includes the tipper or cradle used to support and tilt the dredge when in use on a vessel but does not include any cable, chain or other attachment to the vessel.

35. Deployment of scallop dredges, &c.

For the purposes of this Part –

(a) a scallop dredge is taken to have been deployed from a vessel if the scallop dredge (or any rope, chain, cable or other thing attached to the scallop dredge) is in or touching the water; and

(b) a scallop dredge is taken to be on board a vessel if no part of the scallop dredge (or any rope, chain, cable or other thing attached to the scallop dredge) is in or touching the water.

36. Possessing scallop dredges

(1) A person must not be in possession of a scallop dredge in State waters unless the person is –

(a) the holder of a fishing licence (scallop) that is endorsed for participation in the scallop fishery at that time and is not deactivated; or

(b) the holder of a fishing licence (scallop) and acting under the authority of a scallop survey; or

(c) a Bass Strait scallop fisher undertaking a Bass Strait scallop trip during an open season for the Bass Strait Central Zone Scallop Fishery and the scallop dredge is on board the fishing vessel.

Penalty:

Grade 3 penalty.

(2) Despite subrule (1), a person may be in possession of the tipper of a scallop dredge on board a fishing vessel while the fishing vessel is in State waters if that person has the written approval of the Secretary.

(3) The holder of a fishing licence (scallop) must not, without the written approval of the Secretary, be in possession of a scallop dredge in State waters unless the licensee's fishing vessel has been fitted with a vessel monitoring system.

Penalty:

Grade 3 penalty.

37. Scallop dredging prohibited in certain areas

(1) A person must not deploy or use a scallop dredge in –

(a) a scallop dredging prohibited area; or

(b) State waters that are less than 20 metres deep; or

(c) a closed area for the commercial scallop fishery.

Penalty:

Grade 3 penalty.

(2) Despite subrule (1), the holder of a fishing licence (scallop) may deploy a scallop dredge while in the immediate proximity of a port for the purpose of maintenance if –

(a) the dredge does not come into contact with the seabed; and

(b) the licence holder has written approval from a fisheries officer.

(3) It is a defence in proceedings for an offence under subrule (1)(a), (b) or (c) if the defendant establishes that, at the relevant time, he or she was acting in accordance with a written authorisation from MAST to deploy or use a scallop dredge for the purpose of promoting a navigable channel.

(4) It is a defence in proceedings for an offence under subrule (1)(c) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

38. Possessing scallop dredges in scallop vessel exclusion zone

(1) A person must not be in possession of a scallop dredge in a scallop vessel exclusion zone.

Penalty:

Grade 3 penalty.

(2) However, a person may be in possession of the tipper of a scallop dredge on board a fishing vessel while the fishing vessel is in a scallop vessel exclusion zone if that person has the written approval of the Secretary.

(3) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

39. Possessing scallop dredges during closed season

(1) The holder of a fishing licence (scallop) must not be in possession of a scallop dredge in State waters during a closed season for the commercial scallop fishery.

Penalty:

Grade 3 penalty.

(2) Subrule (1) does not apply if the scallop dredge is on board a fishing vessel that –

(a) is returning to a port of landing within 48 hours after the end of the open season; or

(b) is leaving a port within 48 hours before the start of the open season; or

(c) is in port or on a mooring and not undertaking a fishing trip.

(3) Despite subrule (1), a person may have the tipper of a scallop dredge on board a fishing vessel while the fishing vessel is in State waters during a closed season if that person has the written approval of the Secretary.

(4) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that, at the relevant time, he or she was acting under the authority of a scallop survey.

40. Specifications for scallop dredges

(1) The holder of a fishing licence (scallop) must not deploy or use a scallop dredge in State waters unless –

(a) the width of the scallop dredge, measured from the outer edges of the dredge, is less than 4.5 metres; and

(b) if a tooth bar is used with the dredge –

(i) it is fixed above the sledge runners of the dredge; and

(ii) the distance between the teeth is no less than 50 millimetres; and

(iii) the teeth project no more than 100 millimetres below the sledge runners of the dredge; and

(c) if a lip is used with the dredge, the lip projects no more than 50 millimetres below the sledge runners of the dredge.

Penalty:

Grade 3 penalty.

(2) Except with the written approval of the Secretary, the holder of a fishing licence (scallop) must not cause or permit more than one scallop dredge to be deployed or used from a fishing vessel.

Penalty:

Grade 2 penalty.

PART 6 - Reporting

Division 1 - Reports

41. Reporting service

(1) A service may be approved to receive reports under these rules.

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

42. Report requirements

The Secretary may require a report made under this Division –

(a) to be made in a specific way; and

(b) to contain specific details and information.

43. Pre-fishing reports

The holder of a fishing licence (scallop) must, unless otherwise authorised, make a report to the reporting service before commencing a fishing trip to take scallops or to conduct a scallop survey.

Penalty:

Grade 2 penalty.

44. Port entry reports

(1) The holder of a fishing licence (scallop) must, at least two hours before entering the immediate proximity of a port of landing, make a report to the reporting service.

Penalty:

Grade 3 penalty.

(2) It is a defence in proceedings for an offence under subrule (1) if the defendant establishes that he or she entered the immediate proximity of the port of landing in compliance with a direction of a fisheries officer.

(3) The holder of a fishing licence (scallop) who is in possession of scallops on a fishing vessel –

(a) must not unload any of those scallops unless a report has been made to the reporting service under subrule (1) –

(i) if the scallops are to be unloaded at a port of landing outside the State between 9 p.m. on any day and 6 a.m. the following day, at least 12 hours before the unloading commences; or

(ii) in any other case, at least 2 hours before the unloading commences; and

(b) must make an additional report to the reporting service –

(i) in respect of any partial unloading of scallops that occurs 5 or more hours after the initial unloading commenced; and

(ii) at least 30 minutes before commencing the partial unloading of the scallops.

Penalty:

Grade 2 penalty.

45. Movement reports

The holder of a fish processing licence must make a report to the reporting service before any scallops are –

(a) moved from the immediate proximity of the fishing vessel from which they were unloaded; or

(b) moved into any premises.

Penalty:

Grade 3 penalty.

46. Alternative arrangements for reporting

Rules 43, 44 and 45 do not apply if –

- (a) the relevant licence is endorsed for alternative arrangements relating to reporting requirements; and
- (b) the licence holder complies with the terms of the endorsement.

47. Making reports

A person must not, except with the written approval of the Secretary, make a report to the reporting service more than 24 hours before the activity to which the report relates is to take place.

Penalty:

Grade 2 penalty.

48. Cancellation reports

If a person who makes a report to the reporting service does not undertake the activity to which the report relates, the person must make a further report to the reporting service within 2 hours after the activity was supposed to have occurred.

Penalty:

Grade 2 penalty.

49. False, misleading or incomplete information

A person must not –

- (a) omit any relevant information from a report required under this Part; or
- (b) give any false or misleading information in a report required under this Part.

Penalty:

Grade 3 penalty.

50. 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 and returns

51. Scallop quota docket

- (1) The holder of a fishing licence (scallop) must complete Part A of a scallop quota docket –

- (a) before any scallops leave the immediate proximity of the site of unloading; and
- (b) for each vehicle transporting scallops from the site of unloading.

Penalty:

Grade 3 penalty.

(2) Subrule (1) does not apply if the holder of the fishing licence (scallop) sells the scallops in accordance with rule 62 to a person who is not the holder of a fish processing licence.

(3) The holder of a fish processing licence must complete or cause to be completed Part B of a scallop quota docket –

- (a) before any scallops leave the immediate proximity of the site of unloading and enter any processing premises; and
- (b) for each vehicle transporting scallops from the site of unloading.

Penalty:

Grade 3 penalty.

(4) A person who completes Part B of a scallop quota docket must write his or her full name and address on the docket.

Penalty:

Grade 2 penalty.

52. Completed scallop quota docket

(1) The holder of a fishing licence (scallop) must –

- (a) within 48 hours after unloading any scallops, ensure that the pink sheet of the completed scallop quota docket is received by the Secretary; and
- (b) keep the white sheet of the completed scallop quota docket, in good condition, for at least 5 years.

Penalty:

Grade 3 penalty.

(2) The holder of a fish processing licence who receives any scallops must ensure that the yellow sheet of the completed scallop quota docket is carried with the scallops while they are being transported to the processing premises.

Penalty:

Grade 3 penalty.

(3) The holder of a fish processing licence who receives any scallops must keep the yellow sheet of the completed scallop quota docket, in good condition, at the processing premises for at least 5 years.

Penalty:

Grade 3 penalty.

53. Conflicts of interest

(1) The holder of a fish processing licence who also holds a fishing licence (scallop) must not complete Part B of the scallop quota docket for –

(a) any scallops landed by the person as the holder of the fishing licence (scallop); or

(b) any scallops landed by a person who is a director, shareholder, partner, employer or employee of the holder of the fishing licence (scallop).

Penalty:

Grade 3 penalty.

(2) The holder of a fish processing licence must not complete Part B of the scallop quota docket for any scallops processed, received or transported as an employee or contractor of the holder of the fishing licence (scallop) who landed the scallops.

Penalty:

Grade 3 penalty.

(3) The holder of a fish processing licence to whom subrule (1) or (2) applies must ensure that –

(a) Part B of the scallop quota docket is completed by –

(i) a person not specified in subrules (1) and (2); or

(ii) an approved person; and

(b) the person who completes Part B writes his or her name and address on the docket.

Penalty:

Grade 3 penalty.

54. Scallop processor returns

(1) The holder of a fish processing licence must, within 7 days after the end of the month in which any scallops have been processed under the licence –

(a) complete an approved scallop processor return; and

(b) furnish that return to the Secretary.

Penalty:

Grade 1 penalty.

(2) However, if the Secretary notifies the holder of a fish processing licence in writing of alternative return arrangements for the purposes of this rule, the holder of the fish processing licence must comply with those alternative return arrangements instead of subrule (1).

Penalty:

Grade 1 penalty.

(3) In this rule –

"return arrangements" means the completion and furnishing of an approved scallop processor return;

"scallop processor return" means a return relating to processed scallops that is part of the records required to be kept under the Act.

55. Scallop catch records

(1) The holder of a fishing licence (scallop) must complete the scallop catch record section of the scallop quota docket on each day during which fishing occurs.

Penalty:

Grade 2 penalty.

(2) In this rule –

"scallop catch record" means a record relating to scallop catch that is part of the records required to be kept under the Act.

PART 7 - Miscellaneous

56. Removing scallops from shells and possession of scallop meat

(1) A person in State waters must not –

(a) remove a scallop from its enclosing shell; or

(b) be in possession of scallop meat.

Penalty:

Grade 2 penalty.

(2) Subrule (1) does not apply if –

(a) the scallop meat is on a trading vessel and it –

(i) is being prepared for cooking or is being cooked or consumed; or

- (ii) has been processed in processing premises; or
- (b) the scallop meat is on a recreational vessel and –
- (i) there is no more than 3 kilograms of scallop meat in total on the vessel; and
- (ii) the scallop meat has been purchased from a fish merchant or retail outlet.

(3) Subrule (1) does not apply to the holder of a fishing licence (recreational scallop) if –

- (a) he or she is in possession of the scallop meat while on board a vessel; and
- (b) none of the scallop meat is landed; and
- (c) the shells of all scallops from which the scallop meat has been removed are landed; and
- (d) those shells are included in the daily maximum amount of scallops permitted under rule 14(1).

(4) Subrule (1) does not apply to the holder of a fishing licence (scallop) if –

- (a) he or she is on board a vessel; and
- (b) the scallop is removed from its enclosing shell before the vessel is in the immediate proximity of a port of landing; and
- (c) there is, in total, no more than 5 kilograms of scallop meat on board the vessel.

(5) A holder of a fishing licence (scallop) may keep, or transfer to a deckhand, scallop meat that has been removed from its enclosing shell in accordance with subrule (4) once the vessel he or she is on has entered a port of landing.

(6) The holder of a fishing licence (scallop) must provide a scallop sales receipt for scallop meat kept, or transferred, under subrule (5) to the person keeping or receiving the scallop meat, being a receipt specifying –

- (a) the date and time the scallop meat is unloaded; and
- (b) the accurate weight of the scallop meat kept or transferred under subrule (5); and
- (c) the name of the person receiving any scallop meat kept or transferred under subrule (5).

Penalty:

Grade 2 penalty.

(7) A person who is in possession of scallop meat kept or transferred in accordance with subrule (5) must –

- (a) keep the receipt provided under subrule (6) whilst the person is in possession of the scallop meat; and
- (b) not sell or transfer that scallop meat.

Penalty:

Grade 2 penalty.

(8) The holder of a fishing licence (scallop) who has kept, or transferred, scallop meat in accordance with subrule (5) must keep a copy of the receipt provided under subrule (6), in good condition, for at least 5 years after the scallop meat was kept or transferred.

Penalty:

Grade 2 penalty.

(9) In this rule –

"deckhand", in relation to a vessel and any scallops, means a person who was on board the vessel as crew during the fishing trip in which the scallops were taken;

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

(a) to carry passengers or cargo for hire or reward; or

(b) to provide services to ships or shipping, whether for reward or otherwise.

57. Transferring scallops from one vessel to another vessel

The holder of a fishing licence (scallop) must not transfer, or cause or permit to be transferred, any scallops from one vessel to another vessel.

Penalty:

Grade 3 penalty.

58. Certain vessels not to be used for taking scallops

A person must not take scallops using a vessel that –

(a) has been used to take scallops outside State waters since the vessel last left port; or

(b) is carrying any scallops taken outside State waters.

Penalty:

Grade 2 penalty.

59. Divers taking scallops

The holder of a fishing licence (scallop) must not permit more than 3 holders of fishing licences (commercial dive) to dive or swim from the fishing vessel specified in the relevant fishing certificate to take scallops.

Penalty:

Grade 2 penalty.

60. Identifying unloaded scallops

The holder of a fish processing licence must ensure that –

- (a) any scallops transported from a fishing vessel to processing premises are identifiable as scallops unloaded from the vessel; and
- (b) scallops in the immediate proximity of the fishing vessel are held in no more than 2 types of containers.

Penalty:

Grade 2 penalty.

61. Unloading at port of landing

(1) The holder of a fishing licence (scallop) must not unload scallops at any place other than a port of landing unless –

- (a) the licensee is complying with a direction of a fisheries officer to unload scallops at a place other than a port of landing; or
- (b) the licence is endorsed with alternative conditions relating to unloading and the scallops are unloaded in accordance with those conditions.

Penalty:

Grade 3 penalty.

(2) A person unloading scallops from a fishing vessel must weigh those scallops –

- (a) within the immediate proximity of the site of unloading; and
- (b) before the scallops are taken into processing premises.

Penalty:

Grade 3 penalty.

(3) The holder of a fishing licence (scallop) must not unload any scallops in Victoria unless –

- (a) the licence is so endorsed; and
- (b) the holder of the fishing licence (scallop) complies with any conditions of that endorsement.

Penalty:

Grade 3 penalty.

62. Transfer or sale of scallops to unlicensed persons, &c.

(1) The holder of a fishing licence (scallop) must not transfer, sell or transport for sale more than 100 kilograms of whole scallops for each fishing trip unless the person receiving the scallops is the holder of a fish processing licence endorsed to process scallops.

Penalty:

Grade 3 penalty.

(2) The holder of a fishing licence (scallop) who transfers or sells 100 kilograms or less of whole scallops to a person who is not the holder of a fish processing licence must –

(a) give a scallop sales receipt to the person to whom the scallops are transferred or sold before the scallops are removed from the immediate proximity of the fishing vessel; and

(b) on the day that the transfer or sale occurs, record the accurate weight of scallops transferred or sold on the scallop quota docket.

Penalty:

Grade 3 penalty.

(3) A fish merchant who sells more than 3 kilograms of scallop meat or more than 100 whole scallops to a person must give the person a receipt for that sale.

Penalty:

Grade 2 penalty.

(4) The holder of a fishing licence (scallop) who unloads any scallops in Victoria must not transfer or sell those scallops to a person who is not the holder of a Tasmanian fish processing licence endorsed to process scallops.

Penalty:

Grade 3 penalty.

(5) In this rule –

"**scallop sales receipt**" means a receipt relating to the sale of scallop that is part of the records required to be kept under the Act.

63. Vessel monitoring systems

(1) The Secretary, by notice in writing served on the holder of a fishing licence (scallop), 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 2009* other than rule 32 of those rules, apply to the holder of a fishing licence (scallop) 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 (scallop); 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 (scallop); and

(c) a reference in those rules to a notice in writing served were a reference to a notice in writing sent.

64. Infringement notice offences and penalties

For section 42(2) of the Act –

(a) an offence against a provision of these rules specified in column 1 of Schedule 6 is a prescribed offence; and

(b) the penalty specified in column 2 of that Schedule for that offence is its prescribed penalty.

SCHEDULE 1 - Ports

Rule 3(4)

1. Beauty Point
2. Bell Bay
3. Bicheno
4. Bridport
5. Currie
6. Devonport
7. Dunalley
8. George Town
9. Grassy
10. Hobart
11. Lady Barron
12. Lakes Entrance, Victoria
13. Margate
14. Port Welshpool, Victoria
15. Queenscliff, Victoria
16. St Helens
17. Stanley

18. Triabunna

19. Ulverstone

SCHEDULE 2 - Scallop dredging prohibited areas

Rule 3(1) and rules 26 and 37

Column 1 Item	Column 2 Area	Column 3 Description of area
1.	Adventure Bay	The waters enclosed west of an imaginary line starting at the southernmost extent of Cape Queen Elizabeth and running in a south-westerly direction to the intersection of line of latitude 43° 17.5226' South with line of longitude 147° 21.5238' East, and then in a southerly direction to the northernmost extent of Grass Point.
2.	Armstrong Channel	The waters within the area bounded – (a) in the west by an imaginary straight line from the southernmost extent of Cape Sir John (on Cape Barren Island) to the westernmost extent of Foam Point (on Clarke Island); and (b) in the east by an imaginary line from the southernmost extent of Moriarty Point (on Clarke Island) to the southernmost extent of Passage Island, then to the southernmost extent of Cone Point (on Cape Barren Island).
3.	Bicheno	The waters enclosed west of an imaginary line starting at the northernmost extent of Farm Point and running in a northerly direction to the intersection of line of latitude 41° 52.0945' South with line of longitude 148° 19.3587' East, and then in a north-westerly direction to the intersection of line of latitude 41° 50.6104' South with line of longitude 148° 16.0877' East.
4.	Binalong Bay	The waters enclosed west of an imaginary straight line starting at the northernmost extent of Boat Harbour Point and running in a northerly direction to the intersection of line of latitude 41° 12.6557' South with line of longitude 148° 17.0404' East.
5.	Cloudy Bay	The waters enclosed north of an imaginary straight line from the southernmost extent of Point Grand to the westernmost extent of Beaufort Point.
6.	D'Entrecasteaux Channel	The waters within the area bounded – (a) in the north by an imaginary straight line from Dennes Point on Bruny Island to Piersons Point on the western shore of the River Derwent; and (b) in the south by an imaginary straight line from Scott Point (at the entrance of Port Esperance) to the northernmost point of Partridge Island, and by the line of longitude 147° 05.90' East between the southernmost point of Partridge Island and Labillardiere Peninsula on Bruny Island.
7.	East Coast Waters	The waters within the area bounded –

- (a) in the north by an imaginary straight line from the north-easternmost extent of Seaford Point to the intersection of line of latitude 42° 18.4232' South with line of longitude 148° 02.6199' East; and
- (b) in the south by an imaginary straight line from the easternmost extent of Cape Bougainville to the intersection of line of latitude 42° 32.0469' South with line of longitude 148° 01.9899' East; and
- (c) in the east by an imaginary line starting at the intersection of line of latitude 42° 18.4232' South with line of longitude 148° 02.6199' East, then running due south to the intersection of line of latitude 42° 20.7900' South with line of longitude 148° 02.6199' East, then in a south-westerly direction to the intersection of line of latitude 42° 24.5900' South with line of longitude 148° 00.6200' East, then in a south-easterly direction to the intersection of line of latitude 42° 26.3900' South with line of longitude 148° 01.9200' East, then in a south-westerly direction to the intersection of line of latitude 42° 29.0733' South with line of longitude 148° 00.6200' East, then in a south-easterly direction to the intersection of line of latitude 42° 32.0469' South with line of longitude 148° 01.9899' East.
8. Fortescue Bay The waters enclosed west of an imaginary straight line from the northernmost extent of Cape Hauy to the easternmost extent of Dolomieu Point.
9. Franklin Sound and waters west of Flinders Island The waters within the area bounded –
- (a) in the west by an imaginary line from the westernmost extent of Cape Frankland (on Flinders Island) to the easternmost extent of Spit Point (on Prime Seal Island), then in a southerly direction to the westernmost extent of East Kangaroo Island, then in a southerly direction to the westernmost extent of Mt Chapel Island, then in a southerly direction to the westernmost extent of Cape Sir John (on Cape Barren Island); and
- (b) in the east by an imaginary straight line from the northernmost extent of Harleys Point (on Cape Barren Island) to the easternmost extent of Pot Boil Point (on Flinders Island).
10. Frederick Henry Bay, Norfolk Bay, Pittwater and Blackman Bay The waters within the area bounded –
- (a) in the south by an imaginary straight line from the southernmost extent of North West Head to the southernmost extent of Cape Contrariety; and
- (b) in the east by an imaginary straight line from the southernmost extent of Long Spit running due east to the opposite shore of Little Chinaman Bay.
11. Georges Bay The waters enclosed west of an imaginary straight line extending from the easternmost extent of Grants Point to the northernmost extent of St Helens Point.
12. Great Oyster Bay The waters enclosed north of an imaginary straight line from the westernmost extent of Weatherhead Point (on Freycinet Peninsula)

		to the north-easternmost extent of Seaford Point.
13.	Marion Bay	The waters enclosed west of an imaginary line starting at Cape Bernier and running in a south-westerly direction to the intersection of line of latitude 42° 46.4753' South with line of longitude 147° 53.8132' East, then due south to the intersection of line of latitude 42° 48.1320' South with line of longitude 147° 53.8132' East, then in a south-easterly direction to the intersection of line of latitude 42° 51.8245' South with line of longitude 147° 57.0292' East, then in an easterly direction to the easternmost extent of Cape Frederick Hendrick.
14.	Mercury Passage	The waters within the area bounded – (a) in the north by an imaginary straight line from the easternmost extent of Cape Bougainville to the northernmost extent of Cape Boullanger; and (b) in the south by an imaginary straight line from the southernmost extent of Cape Peron to the easternmost extent of Cape Bernier.
15.	Pirates Bay	The waters enclosed west of an imaginary straight line from the northernmost extent of Fossil Island to the southernmost extent of Osprey Head.
16.	Port Arthur and Crescent Bay	The waters enclosed – (a) north of an imaginary straight line from the southernmost extent of Budget Head to the easternmost extent of Standup Point; and (b) west of an imaginary straight line from the easternmost extent of Standup Point to the easternmost extent of West Arthur Head.
17.	Port Sorell	The waters upstream of an imaginary straight line from Griffiths Point in the east to Taroon Point in the west at the southern extremity of Hawley Beach.
18.	Recherche Bay	The waters enclosed west of an imaginary straight line from the northernmost extent of Fishers Point to the easternmost extent of Eliza Point.
19.	Riedle Bay	The waters enclosed west of an imaginary straight line from John Bulls Rock to Cape des Tombeaux.
20.	River Derwent	The waters upstream of an imaginary straight line from the northernmost extent of Dennes Point to the southernmost extent of Cape Direction.
21.	River Tamar	The waters upstream of an imaginary straight line from the northernmost extent of Low Head to the northernmost extent of West Head.
22.	Robbins Passage	The waters within the area bounded – (a) in the east by an imaginary straight line from the westernmost extent of Eagle Point to the easternmost extent of Cape Elie (on Robbins Island); and (b) in the north by an imaginary straight line from the northernmost extent of Walker Island to the northernmost extent of Woolnorth Point.
23.	Schouten Passage	The waters within the area bounded –

		(a) in the east by an imaginary straight line from the easternmost extent of Cape Degerando to the easternmost extent of Masons Downfall; and
		(b) in the west by an imaginary straight line from the westernmost extent of Sandstone Bluff to the westernmost extent of Weatherhead Point.
24.	Southport	The waters enclosed west of an imaginary straight line from the southernmost extent of Rossel Point to the easternmost extent of Southport Bluff.
25.	Wedge Bay	The waters enclosed east of an imaginary straight line from the westernmost extent of Low Point to the southernmost extent of Lory Point.
26.	Wineglass Bay	The waters enclosed west of an imaginary straight line from the easternmost extent of Cape Tourville to the northernmost extent of the easternmost extent of Cape Forestier.

SCHEDULE 3 - Scallop Recreational Areas

Rule 12

Column 1 Item	Column 2 Area	Column 3 Description of area
1.	D'Entrecasteaux Channel	The waters within the area bounded – (a) in the north by an imaginary straight line from Dennes Point on Bruny Island to Piersons Point on the western shore of the River Derwent; and (b) in the south by an imaginary straight line from Scott Point (at the entrance of Port Esperance) to the northernmost point of Partridge Island, and by the line of longitude 147° 05.90' East between the southernmost point of Partridge Island and Labillardiere Peninsula on Bruny Island.

SCHEDULE 4 - Overrun

PART 1 - Overrun for rule 21(1) and (4)

Item	Amount of excess kilograms	Deduction for each excess kilogram
1.	Less than or equal to 3 000 kilograms	1 kilogram
2.	More than 3 000 kilograms but less than or equal to 5 000 kilograms	1.5 kilograms
3.	More than 5 000 kilograms but less than or equal to 10 000 kilograms	2 kilograms
4.	More than 10 000 kilograms but less than or equal to 15 000 kilograms	3 kilograms

PART 2 - Overrun for rule 21(2)

Item	Amount of excess kilograms	Deduction for each excess kilogram
1.	Less than or equal to 10 000 kilograms	1 kilogram
2.	More than 10 000 kilograms but less than or equal to 12 000 kilograms	1.5 kilograms
3.	More than 12 000 kilograms but less than or equal to 15 000 kilograms	3 kilograms

SCHEDULE 5 - Scallop measurements

Rule 3(1) and rules 9 and 10

PART 1 - Minimum size and meaning of scallop spat

1. Minimum size specified

Unless the Secretary, by public notice, determines otherwise for a type of scallop, or for a type of scallop in relation to a part of the scallop fishery, the minimum size for a scallop is taken to be –

(a) for a queen scallop (*Equichlamys bifrons*), a scallop that is 100 millimetres at its widest part; or

(b) for a commercial scallop (*Pecten fumatus*) if taken or possessed for non-commercial purposes, a scallop that is 100 millimetres at its widest part; or

(c) for a commercial scallop (*Pecten fumatus*) if taken or possessed for commercial purposes, a scallop that is 90 millimetres at its widest part; or

(d) for a doughboy scallop (*Mimachlamys asperrimus*), a scallop that is 80 millimetres at its widest part.

2. Meaning of scallop spat

In these rules –

"scallop spat" means a scallop that is less than 40 millimetres at its widest part.

3. Meaning of widest part of scallop

For the purpose of clauses 1 and 2, the widest part of a scallop is taken to be the measurement along a straight line, generally parallel with the shell hinge, representing the widest part of the body of the shell, as shown in the diagrams which are set out, by way of illustration only, in Part 2 of this Schedule.

PART 2 - Scallop diagrams

[Click here to view image](#)

SCHEDULE 6 - Infringement notice offences and penalties

Rule 64

	Column 1	Column 2
	Provision of rules	Penalty units
1.	<u>rule 8(1)</u>	4
2.	<u>rule 9</u>	4
3.	<u>rule 10</u>	2
4.	<u>rule 13</u>	4
5.	<u>rule 14(1)</u>	2
6.	<u>rule 14(2)</u>	2
7.	<u>rule 14(3)</u>	2
8.	<u>rule 17(1)</u>	4
9.	<u>rule 18(1)</u>	4
10.	<u>rule 19(1)</u>	5
11.	<u>rule 19(2)</u>	4
12.	<u>rule 22(4)(b)</u>	2
13.	<u>rule 23(1)</u>	5
14.	<u>rule 23(2)</u>	4
15.	<u>rule 24(4)</u>	3
16.	<u>rule 25(1)</u>	3
17.	<u>rule 25(2)</u>	3
18.	<u>rule 26(1)(a)</u>	5
19.	<u>rule 26(1)(b)</u>	3
20.	<u>rule 28</u>	1
21.	<u>rule 33(1)</u>	4
22.	<u>rule 33(3)</u>	4
23.	<u>rule 33(4)</u>	4
24.	<u>rule 36(1)</u>	5
25.	<u>rule 36(3)</u>	5
26.	<u>rule 37(1)(a)</u>	5
27.	<u>rule 37(1)(b)</u>	3
28.	<u>rule 37(1)(c)</u>	3
29.	<u>rule 38(1)</u>	5
30.	<u>rule 39(1)</u>	5
31.	<u>rule 40(1)</u>	3
32.	<u>rule 40(2)</u>	4
33.	<u>rule 43</u>	1
34.	<u>rule 44(1)</u>	1
35.	<u>rule 44(3)(a)</u>	2
36.	<u>rule 44(3)(b)</u>	1
37.	<u>rule 45(a)</u>	2
38.	<u>rule 45(b)</u>	3
39.	<u>rule 47</u>	1
40.	<u>rule 48</u>	1
41.	<u>rule 49</u>	2
42.	<u>rule 50</u>	1

43.	<u>rule 51(1)</u>	2
44.	<u>rule 51(3)</u>	2
45.	<u>rule 51(4)</u>	2
46.	<u>rule 52(1)</u>	2
47.	<u>rule 52(2)</u>	2
48.	<u>rule 52(3)</u>	2
49.	<u>rule 53(1)</u>	2
50.	<u>rule 53(2)</u>	2
51.	<u>rule 53(3)(a)</u>	2
52.	<u>rule 53(3)(b)</u>	2
53.	<u>rule 54(1)</u>	1
54.	<u>rule 55(1)</u>	2
55.	<u>rule 56(1)</u>	2
56.	<u>rule 56(6)</u>	2
57.	<u>rule 56(7)(a)</u>	1
58.	<u>rule 56(7)(b)</u>	3
59.	<u>rule 56(8)</u>	2
60.	<u>rule 60(a)</u>	4
61.	<u>rule 60(b)</u>	3
62.	<u>rule 61(1)</u>	3
63.	<u>rule 62(1)</u>	4
64.	<u>rule 62(2)</u>	3
65.	<u>rule 62(3)</u>	2
66.	<u>rule 62(4)</u>	4

Displayed and numbered in accordance with the [Rules Publication Act 1953](#).

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

Table Of Amendments

Citation	Serial Number	Date of commencement
Fisheries (Scallop) Rules 2010	S.R. 2010, No. 3	1.3.2010