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Fisheries (Shellfish) Rules 2017

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Fisheries (Shellfish) Rules 2017

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

6 March 2017

JEREMY ROCKLIFF

Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

These rules may be cited as the Fisheries (Shellfish) Rules 2017 .

2. Commencement

These rules take effect on 21 March 2017.

3. Interpretation

In these rules, unless the contrary intention appears –

abalone means fish of the genus *Haliotis*;

Act means the Living Marine Resources Management Act 1995 ;

Ansons Bay means the State waters enclosed west of an imaginary straight line extending from the easternmost point of Policemans Point in a north-westerly direction to the southernmost point of the spit originating on the northern side of the bay;

Ansons Bay Cockle Zone means that part of Ansons Bay enclosed within the boundary formed by drawing four straight imaginary lines to connect the following points in the following order:

- (a) intersection of line of latitude 41°03.3322' South with line of longitude 148°16.5213' East;
- (b) intersection of line of latitude 41°02.7612' South with line of longitude 148°17.0236 East;
- (c) intersection of line of latitude 41°03.5185' South with line of longitude 148°17.4792' East;
- (d) intersection of line of latitude 41°03.7879' South with line of longitude 148°17.2873' East;
- (e) intersection of line of latitude 41°03.3322' South with line of longitude 148°16.5213' East;

assistant means an employee or other person who assists the holder of a fishing licence in fishing under the licence;

clam means –

- (a) venerupis clam and other molluscan bivalve of the family Veneridae (except those of the genus *Katelysia*); and
- (b) molluscan bivalve of the family Pinnidae (commonly known as razor clam);

cockle means –

- (a) *katelysia* cockle; and
- (b) molluscan bivalve of the family Glycymeridae (commonly known as dog cockle); and
- (c) molluscan bivalve of the family Cardiidae;

diving equipment includes –

- (a) compressors and compressed air equipment; and
- (b) scuba tanks; and
- (c) wetsuits and diving suits; and
- (d) facemasks, flippers and snorkels;

fish cauf means an apparatus that is used for the purposes of holding fish in State waters;

fishing licence (class shellfish) means a fishing licence of a kind referred to in rule 6(a) ;

fishing licence (commercial dive) has the same meaning as in the Fisheries (Commercial Dive) Rules 2011 ;

fishing trip means a trip undertaken for fishing, commencing on the departure from a port and ending on the return to port;

Georges Bay means the State waters enclosed west of an imaginary straight line extending from the tip of Grants Point to the tip of St Helens Point in the north-east of the State;

Georges Bay North Clam Zone means that part of Georges Bay north of line of latitude 41°18.4797' South;

Georges Bay South Clam Zone means that part of Georges Bay south of line of latitude 41°18.4797' South;

Grade 1 penalty means the penalty specified in regulation 5 of the Fisheries (Penalties) Regulations 2011 ;

Grade 2 penalty means the penalty specified in regulation 6 of the Fisheries (Penalties) Regulations 2011 ;

Grade 3 penalty means the penalty specified in regulation 7 of the Fisheries (Penalties) Regulations 2011 ;

holder of a licence includes, except in rule 18 , a person who has approval under section 87(2) of the Act to use the licence;

katelaysia cockle means molluscan bivalve of the genus *Katelaysia*;

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

landing area means the area on the landward side of the high-water mark within a 50-metre radius of the point of landing;

licensing year means the period beginning on 1 September each year and ending at midnight on 31 August the following year;

mussel means molluscan bivalve of the family Mytilidae;

native oyster means molluscan bivalve of the species *Ostrea angasi*;

on board a punt or other vessel, in relation to equipment, includes attached to the punt or other vessel, whether directly or indirectly, by hooks, lashings or any other means;

Pacific oyster means molluscan bivalve of the species *Crassostrea gigas*;

periwinkle means molluscan gastropod of the genus *Turbo*;

pipi means molluscan bivalve of the family Donacidae;

purge site means a location in State waters where shellfish are placed for the purpose of purging them of undesirable elements such as sand, grit and natural waste;

purge site record – see rule 47(1) ;

purge supervisor, of a licence, means a person who has approval under section 87(2) of the Act to use the licence, but solely for the purposes of removing shellfish from a purge site endorsed on the licence in connection with their sale or transfer;

quota period – see rule 7 ;

shellfish means clams, cockles, pipis, mussels, oysters and other fish of the class Bivalva and Gastropoda, other than –

(a) abalone; and

(b) scallops; and

(c) fish referred to in regulation 15 of the Fisheries (General and Fees) Regulations 2016 ; and

(d) fish farmed under a marine farming licence;

shellfish disposal receipt means a receipt, in an approved form, that –

- (a) relates to the sale or transfer of shellfish; and
- (b) is part of the records required to be kept under the Act;

shellfish docket means a docket, in an approved form, that –

- (a) relates to the taking of shellfish; and
- (b) is part of the records required to be kept under the Act;

shellfish fishery means the taking or possession of shellfish in State waters by any person;

venerupis clam means molluscan bivalve of the genus *Venerupis*;

wedge shell means molluscan bivalve of the family Mesodesmatidae;

whelk means molluscan gastropod of the family Buccinidae or Fasciolaridae;

whole weight means the weight of a fish, including the shell, before it is dismembered, dried or otherwise processed.

4. Application of rules

- (1) These rules apply to the shellfish fishery.
- (2) However, these rules do not apply to the taking of whelks or periwinkles for commercial purposes.

5. Duration of rules

These rules continue in effect for 10 years.

6. Classes of fishing licence

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

- (a) class shellfish –
 - (i) fishing licence (clam – Georges Bay North); or
 - (ii) fishing licence (clam – Georges Bay South); or
 - (iii) fishing licence (cockle – Ansons Bay); or
 - (iv) fishing licence (native oyster – Georges Bay); or
 - (v) fishing licence (Pacific oyster);
- (b) class commercial dive, fishing licence (commercial dive);
- (c) class vessel, fishing licence (vessel).

PART 2 - General Management of Fishery

7. Total allowable catch

- (1) The quota period for the shellfish fishery is –
 - (a) for licences generally, the period beginning on 1 September each year and ending at midnight on 31 August the following year; or
 - (b) if for any particular licence or licences the Minister, by public notice, determines that some other period should apply, the period specified in that public notice for that licence or those licences.
- (2) The Minister is to determine the total allowable catch for the shellfish fishery, or part of the shellfish fishery, by reference to whole weight or number of shellfish.
- (3) The total allowable catch for a quota period is to be allocated equally amongst the licences issued for the quota period for the shellfish fishery, or that part of the shellfish fishery to which the determination relates.
- (4) The Secretary is to endorse each licence in respect of which an allocation has been made under subrule (3) with the quantity of shellfish (in whole weight or number of shellfish, as applicable) allocated to that licence.

8. Shellfish quota balance not to be exceeded

- (1) The holder of a fishing licence (class shellfish) must not, for commercial purposes, take, or in State waters be in possession of, a quantity of shellfish that exceeds the shellfish quota balance for the licence.

Penalty: Grade 3 penalty.

- (2) In this rule –

shellfish quota balance means the quantity of shellfish allocated to a licence for a quota period, less the quantity of shellfish taken and retained under that licence in that quota period.

9. Closed and open seasons for fishery

- (1) The Minister, by public notice, may determine –
 - (a) the dates of the closed season for all or part of the shellfish fishery; and
 - (b) the dates of the open season for all or part of the shellfish fishery.
- (2) A person must not –
 - (a) take shellfish from State waters that are closed to the shellfish fishery; or
 - (b) take shellfish from State waters that are closed to the shellfish fishery for that kind of shellfish.

Penalty: Grade 3 penalty.

- (3) A person must not be in possession of shellfish in State waters that are –
 - (a) closed to the shellfish fishery; or
 - (b) closed to the shellfish industry for that kind of shellfish –
except for the sole purpose of placing them in, or removing them from, a purge site endorsed on a shellfish licence –
 - (c) that is held by the person; or
 - (d) of which the person is a purge supervisor.

Penalty: Grade 3 penalty.

10. Closure of fishery to certain fishing activities

(1) The Minister, by public notice, may determine that the shellfish fishery or a part of the shellfish fishery is closed in respect of a fishing activity specified in the notice for such period as is specified in the notice.

(2) A person must not engage in a fishing activity in or in relation to the shellfish fishery during a period when, by virtue of a public notice under subrule (1), the shellfish fishery is closed in respect of that fishing activity.

Penalty: Grade 3 penalty.

(3) A person must not engage in a fishing activity in or in relation to a part of the shellfish fishery during a period when, by virtue of a public notice under subrule (1), that part of the shellfish fishery is closed in respect of that fishing activity.

Penalty: Grade 3 penalty.

11. Possession limits for undersize katelaysia cockles, native oysters and venerupis clams

(1) The holder of a fishing licence that authorises the taking of katelaysia cockles must not, on and during a fishing trip, be in possession of more than 100 undersize katelaysia cockles at any one time.

Penalty: Grade 3 penalty.

(2) The holder of a fishing licence that authorises the taking of native oysters must not, on and during a fishing trip, be in possession of more than 100 undersize native oysters at any one time.

Penalty: Grade 3 penalty.

(3) The holder of a fishing licence that authorises the taking of venerupis clams must not, on and during a fishing trip, be in possession of more than 100 undersize venerupis clams at any one time.

Penalty: Grade 3 penalty.

(4) To avoid doubt, the possession limits in subrules (1), (2) and (3) apply solely to shellfish in the relevant licensee's physical possession on and during the relevant fishing trip, not to shellfish that the licensee may be holding elsewhere, at a purge site or other place distant from the licensee at the relevant time, from a previous fishing trip.

(5) In this rule –

undersize katelaysia cockle means a katelaysia cockle measuring, at its widest part, less than –

(a) 32 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 32 millimetres applies for the purpose of this rule, that other measurement;

undersize native oyster means a native oyster measuring, at its widest part, less than –

(a) 70 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 70 millimetres applies for the purpose of this rule, that other measurement;

undersize venerupis clam means a venerupis clam measuring, at its widest part, less than –

(a) 40 millimetres; or

(b) if the Minister by public notice determines that a measurement other than 40 millimetres applies for the purpose of this rule, that other measurement.

12. Possession limits for other kinds of undersize and oversize shellfish

(1) This rule applies to shellfish other than katelaysia cockles, native oysters and venerupis clams.

(2) The Minister, by public notice, may determine for a kind of shellfish –

(a) a minimum size limit; and

(b) the number of shellfish smaller than that minimum size limit (in this rule referred to as *undersize shellfish*) allowed to be taken or possessed.

(3) The Minister, by public notice, may determine for a kind of shellfish –

(a) a maximum size limit; and

(b) the number of shellfish greater than that maximum size limit (in this rule referred to as *oversize shellfish*) allowed to be taken or possessed on and during a fishing trip.

(4) If a determination is in place under subrule (2) for a kind of shellfish, a person must not, on and during a fishing trip, take or at any one time be in possession of more undersize shellfish of that kind than the determination allows.

Penalty: Grade 3 penalty.

(5) If a determination is in place under subrule (3) for a kind of shellfish, a person must not, on and during a fishing trip, take or at any one time be in possession of more oversize shellfish of that kind than the determination allows.

Penalty: Grade 3 penalty.

(6) To avoid doubt, the possession limits in subrules (4) and (5) apply solely to shellfish in the relevant person's physical possession on and during the relevant fishing trip, not to shellfish that the person may be holding elsewhere, at a purge site or other place distant from the person at the relevant time, from a previous fishing trip.

13. Use of fishing apparatus

(1) A person must not use apparatus of any kind, including a mechanised or powered hand tool, to take shellfish unless the person is the holder of a fishing licence (class shellfish) that is endorsed for the use of that apparatus.

Penalty: Grade 2 penalty.

(2) However, a person authorised to take wild Pacific oysters may do so using any kind of hand tool other than a mechanised or powered hand tool.

14. Taking shellfish for recreational fishing

(1) Unless otherwise authorised, a person must not, in any one day, take from State waters more than –

(a) 200 wedge shells; or

(b) 100 mussels; or

(c) 100 periwinkles; or

(d) 50 native oysters; or

(e) 20 shellfish of a species, or mixture of species, different from those referred to in paragraph (a) , (b) , (c) or (d) ; or

(f) a combination of 100 clams, cockles, pipis and other molluscan bivalves of the order Veneroida excluding wedge shells.

Penalty: Grade 2 penalty.

(2) Subrule (1)(e) is not to be taken as authorising the taking of a fish referred to in regulation 15 of the Fisheries (General and Fees) Regulations 2016 .

(3) Subrule (1)(a) and (e) do not apply to an Aborigine who is engaged in an Aboriginal cultural activity.

(4) There is no limit on the number of Pacific oysters that may be taken by a person engaged in recreational fishing.

PART 3 - Licences

15. Authority of licences

- (1) A fishing licence (clam – Georges Bay North) only authorises the holder to take and possess venerupis clams for commercial purposes from the Georges Bay North Clam Zone.
- (2) A fishing licence (clam – Georges Bay South) only authorises the holder to take and possess venerupis clams for commercial purposes from the Georges Bay South Clam Zone.
- (3) A fishing licence (cockle – Ansons Bay) only authorises the holder to take and possess katelysia cockles for commercial purposes from the Ansons Bay Cockle Zone.
- (4) A fishing licence (native oyster – Georges Bay) only authorises the holder to take and possess native oysters for commercial purposes from Georges Bay.
- (5) A fishing licence (Pacific oyster) only authorises the holder to take and possess Pacific oysters for commercial purposes from the State waters specified by an endorsement on that licence.

16. Limit on number of fishing licences (class shellfish)

- (1) The Minister is to ensure that, at any one time –
 - (a) no more than two fishing licences (clam – Georges Bay North) are in force; and
 - (b) no more than one fishing licence (clam – Georges Bay South) is in force; and
 - (c) no more than two fishing licences (native oyster – Georges Bay) are in force; and
 - (d) no more than three fishing licences (cockle – Ansons Bay) are in force.
- (2) There is no limit on the number of fishing licences (Pacific oyster) that may be issued.

17. Restriction on number of assistants

- (1) The holder of a fishing licence (class shellfish) must not, at any time, allow more than two assistants to participate in fishing under that licence.

Penalty: Grade 3 penalty.

- (2) However, there is no restriction on the number of assistants that may participate in fishing under a fishing licence (Pacific oyster).
- (3) The holder of a fishing licence (class shellfish), including a fishing licence (Pacific oyster), must not allow an assistant to participate in fishing under the licence unless the holder of the licence is supervising the assistant.

Penalty: Grade 3 penalty.

18. Restriction on use of licences by other persons

- (1) The holder of a fishing licence (class shellfish) may only apply for approval under section 87 of the Act if the application is to allow either or both of the following:
 - (a) no more than one other person to use the licence by acting as a supervisor;
 - (b) no more than one person to use the licence by acting as a purge supervisor.
- (2) If the holder of a fishing licence (class shellfish) obtains approval under section 87 of the Act for another person to use the licence by acting as a supervisor for any period, the holder of the licence must not use the licence at any time during that period.

Penalty: Grade 3 penalty.

(3) Only one person at a time may act as a purge supervisor for a licence, but a person may act as the purge supervisor of more than one licence.

19. Purge supervisors

(1) This rule applies to a purge supervisor of a fishing licence (class shellfish) (*the licence*).

(2) A purge supervisor to whom this rule applies must not take any fish under the licence.

Penalty: Grade 3 penalty.

(3) A purge supervisor to whom this rule applies must not be in possession of shellfish of a species listed on the licence unless –

(a) the purge supervisor is, for commercial purposes, removing the shellfish from a purge site endorsed on the licence; and

(b) if the process under paragraph (a) first requires the purge supervisor to remove any of the shellfish from a fish cauf at the purge site, the purge supervisor is in possession of the purge site record relating to that fish cauf.

Penalty: Grade 3 penalty.

(4) A purge supervisor to whom this rule applies must not, in removing any shellfish taken under the licence from a purge site, cause or allow those shellfish to come into contact with or get mixed up with shellfish taken under any other licence.

Penalty: Grade 2 penalty.

(5) A purge supervisor to whom this rule applies must not be on board a vessel being used for the purposes of the licence if there is diving equipment of any kind on board the vessel.

Penalty: Grade 2 penalty.

(6) A purge supervisor to whom this rule applies must not, in connection with the licence, use any shellfish disposal receipt book other than the shellfish disposal receipt book that has been most recently issued to him or her personally under the Act as the purge supervisor of the licence.

Penalty: Grade 2 penalty.

(7) A purge supervisor to whom this rule applies must not allow any other person to use a shellfish disposal receipt book that has been issued to him or her personally under the Act as the purge supervisor of the licence.

Penalty: Grade 2 penalty.

(8) In this rule –

shellfish disposal receipt book means a book of shellfish disposal receipts;

use, in relation to a shellfish disposal receipt book, includes signing, writing or recording anything in the book, removing any folio from the book and inserting or substituting any folio in the book.

20. Restriction on granting subsequent licences

A fishing licence (class shellfish), other than a fishing licence (Pacific oyster), may only be granted to a person if the person lodging the application for that licence –

(a) held a licence of the same class on the preceding 31 August; and

(b) lodges the application for the licence in accordance with section 77 of the Act within 12 months after the expiry of the licence.

21. Lapsed licensees not eligible to be granted equivalent licence in certain cases

- (1) This rule applies if for any reason a person holding a fishing licence (class shellfish) –
 - (a) allows the licence to expire; and
 - (b) does not, within 12 months after 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 (class shellfish) of the same kind as the expired licence unless it was a fishing licence (Pacific oyster).

22. Licensees may be required to help with industry research

It is a condition of a fishing licence (class shellfish) that the holder of the licence must, in each licensing year, if the Secretary by notice in writing so requires, conduct research in accordance with the terms of the notice, for up to two days in a licensing year.

23. Fishing licence (Pacific oyster) not transferable

A fishing licence (Pacific oyster) is not transferable.

PART 4 - Controls and Offences

24. Taking or possessing shellfish for commercial purposes

A person must not, for commercial purposes, take or have possession of shellfish unless –

- (a) the person is the holder or purge supervisor of a fishing licence (class shellfish); or
- (b) the shellfish are taken or possessed in accordance with a marine farming licence; or
- (c) the taking or possession is otherwise authorised under the Act.

Penalty: Grade 3 penalty.

25. Taking clams for commercial purposes from Georges Bay North Clam Zone

A person must not, for commercial purposes, take clams from the Georges Bay North Clam Zone unless the person is –

- (a) the holder of a fishing licence (clam – Georges Bay North); or
- (b) an assistant of the holder of a fishing licence (clam – Georges Bay North).

Penalty: Grade 3 penalty.

26. Taking clams for commercial purposes from Georges Bay South Clam Zone

A person must not, for commercial purposes, take clams from the Georges Bay South Clam Zone unless the person is –

- (a) the holder of a fishing licence (clam – Georges Bay South); or
- (b) an assistant of the holder of a fishing licence (clam – Georges Bay South).

Penalty: Grade 3 penalty.

27. Taking cockles for commercial purposes from Ansons Bay

A person must not, for commercial purposes, take cockles from the Ansons Bay Cockle Zone unless the person is –

- (a) the holder of a fishing licence (cockle – Ansons Bay); or
- (b) an assistant of the holder of a fishing licence (cockle – Ansons Bay).

Penalty: Grade 3 penalty.

28. Taking native oysters for commercial purposes from Georges Bay

A person must not, for commercial purposes, take native oysters from Georges Bay unless the person is –

- (a) the holder of a fishing licence (native oyster – Georges Bay); or
- (b) an assistant of the holder of a fishing licence (native oyster – Georges Bay).

Penalty: Grade 3 penalty.

29. Taking Pacific oysters for commercial purposes

A person must not, for commercial purposes, take Pacific oysters unless the person is –

- (a) the holder of a fishing licence (Pacific oyster); or
- (b) an assistant of the holder of a fishing licence (Pacific oyster).

Penalty: Grade 3 penalty.

30. Taking shellfish for commercial purposes by diving

A person must not, for commercial purposes, take shellfish by diving or swimming beneath the surface of State waters unless the person is the holder of a fishing licence (commercial dive).

Penalty: Grade 3 penalty.

31. Certain vessels not to be used for taking shellfish

(1) The holder of a fishing licence (class shellfish) must not, for the purposes of that licence, use any vessel that is not specified in a fishing licence (vessel).

Penalty: Grade 3 penalty.

(2) Subrule (1) does not apply if the vessel is a punt that is used solely to carry shellfish taken under the fishing licence (class shellfish).

(3) However, the holder of a fishing licence (class shellfish) must not use a punt to carry shellfish taken under the licence unless –

- (a) the licence is endorsed for the use of a punt; and
- (b) one punt only is so used at any one time.

Penalty: Grade 3 penalty.

(4) Also, the holder of a fishing licence (class shellfish) must not use a punt to carry shellfish taken under the licence if –

- (a) there is diving equipment of any kind on board the punt at the same time as the shellfish; or
- (b) any diving has taken place during a fishing trip involving the punt; or
- (c) shellfish taken under any other fishing licence are also on board the punt.

Penalty: Grade 3 penalty.

(5) In this rule –

punt means a non-mechanically powered vessel that is less than 2.5 metres long.

32. Offence to engage in recreational fishing while fishing under commercial licences

A person must not, while fishing under a fishing licence (class shellfish), engage in any kind of recreational fishing.

Penalty: Grade 2 penalty.

33. All shellfish to be landed

(1) The holder of a fishing licence (class shellfish) must land all shellfish taken under the licence.

Penalty: Grade 2 penalty.

(2) For the purpose of subrule (1), shellfish are deemed not to be taken if they are returned to the water and released immediately after being caught.

PART 5 - Dockets and Returns

34. Shellfish docket

(1) The holder of a fishing licence (class shellfish) other than a fishing licence (Pacific oyster) must complete the information relating to the taking of shellfish in a shellfish docket –

- (a) before the end of the day on which the shellfish are landed; and
- (b) before any of the shellfish leave the landing area; and
- (c) before any of the shellfish are moved inside a tent or other temporary structure, or inside a building or vehicle.

Penalty: Grade 3 penalty.

(2) The holder of a fishing licence (Pacific oyster) must complete the information relating to the taking of shellfish in a shellfish docket before the end of the day on which the shellfish are landed.

Penalty: Grade 3 penalty.

35. Completed shellfish docket – obligations of licensees

The holder of a fishing licence (class shellfish) must –

- (a) ensure that the original of a completed shellfish docket is received by the Secretary within 48 hours after the shellfish to which the docket relates are landed; and
- (b) keep a copy of a completed shellfish docket in good condition for at least 5 years.

Penalty: Grade 2 penalty.

36. Shellfish disposal receipts

(1) Where a person who is the holder or purge supervisor of a fishing licence (class shellfish) sells or transfers shellfish taken under that licence, the person must –

- (a) complete a shellfish disposal receipt, in the approved manner, for each kind of shellfish sold or transferred; and
- (b) ensure that the purchaser or transferee, on taking possession of those shellfish, immediately signs the completed shellfish disposal receipt.

Penalty: Grade 3 penalty.

(2) Where a person who is the holder or purge supervisor of a fishing licence (class shellfish) sells or transfers shellfish taken under that licence, the person must –

- (a) ensure that the original of the completed shellfish disposal receipt is received by the Secretary within 48 hours of selling or transferring those shellfish; and
- (b) keep a copy of the completed shellfish disposal receipt in good condition for at least 5 years.

Penalty: Grade 2 penalty.

37. Completed shellfish disposal receipts – obligations of fish processors

(1) The holder of a fish processing licence must not take possession of shellfish from the holder or purge supervisor of a fishing licence (class shellfish) unless the holder of the fish processing licence has been given a copy of the completed shellfish disposal receipt relating to the shellfish.

Penalty: Grade 2 penalty.

(2) The holder of a fish processing licence who takes possession of shellfish from the holder or purge supervisor of a fishing licence (class shellfish) must –

- (a) keep the copy of the completed shellfish disposal receipt relating to the shellfish with the shellfish while they are being processed; and
- (b) retain that copy in good condition, for at least 5 years.

Penalty: Grade 2 penalty.

PART 6 - Reporting

38. Reporting service

- (1) A reporting service may be approved to receive reports under these rules.
- (2) As soon as practicable after receiving a report under these rules, the reporting service is to issue the maker of the report with a report receipt number.
- (3) A person who is issued with a report receipt number must provide that number to a fisheries officer when required to do so.

Penalty: Grade 2 penalty.

39. Report requirements

The Secretary may require a report made under this Part –

- (a) to be made in a specific way; and
- (b) to contain specific details and information.

40. Pre-fishing reports

- (1) The holder of a fishing licence (class shellfish) must make a report to the reporting service before –
 - (a) entering the area of State waters authorised by that licence for the taking or possession of shellfish; and
 - (b) taking any shellfish under that licence.

Penalty: Grade 2 penalty.

- (2) However, the holder of a fishing licence (Pacific oyster) is not required to make a report before taking only Pacific oyster, unless directed to do so by the Secretary.

41. Making reports

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

Penalty: Grade 2 penalty.

42. Cancellation reports

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

Penalty: Grade 2 penalty.

43. Alternative reporting arrangements

This Part does not apply if –

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

44. 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.

PART 7 - Fish caufs

45. Use of fish caufs – main restrictions

(1) A person who is the holder of a fishing licence (class shellfish) must not, unless the licence is endorsed for the use of a fish cauf –

- (a) be in possession of a fish cauf; or
- (b) place shellfish in a fish cauf; or
- (c) hold shellfish in a fish cauf.

Penalty: Grade 3 penalty.

(2) A person who is the purge supervisor of a fishing licence (class shellfish) must not, when acting in that capacity, place shellfish in a fish cauf.

Penalty: Grade 2 penalty.

46. Use of fish caufs – general obligations of licensees

(1) This rule applies to a person who is the holder of a fishing licence (class shellfish) that is endorsed for the use of a fish cauf (*the licence*).

(2) The person must not, for the purposes of the licence, use a fish cauf anywhere other than at a place specified in the licence for such use.

Penalty: Grade 3 penalty.

(3) The person must not, for the purposes of the licence, place in a fish cauf shellfish that have been taken recreationally or under another licence.

Penalty: Grade 3 penalty.

(4) The person must not, for the purposes of the licence, at any time after the 30-day period immediately following the commencement of a new licensing year, hold in a fish cauf shellfish taken under the licence during the previous licensing year.

Penalty: Grade 2 penalty.

(5) The person must not, for the purposes of the licence, place shellfish in a fish cauf on any day unless he or she has completed the shellfish docket for those shellfish for that day.

Penalty: Grade 3 penalty.

(6) The person must, in using a fish cauf for the purposes of the licence, ensure that –

- (a) shellfish taken on any one day are kept in a separate container in the fish cauf from shellfish taken on any other day; and
- (b) if shellfish of more than one kind are taken on any one day, the shellfish of each kind are kept in a separate container in the fish cauf; and
- (c) each container holding shellfish in the fish cauf is clearly marked with the following:
 - (i) the date on which the shellfish were placed in the fish cauf;
 - (ii) the shellfish docket number of the shellfish docket completed for the shellfish.

Penalty: Grade 1 penalty.

- (7) In any proceedings for an offence under subrule (6) , it is a defence if the defendant establishes that –
- (a) another person acting or purporting to act under the authority of the licence committed the offence; and
 - (b) at the relevant time –
 - (i) the defendant did not know and could not reasonably have been expected to know that the offence was being committed; or
 - (ii) the defendant exercised reasonable diligence to prevent the commission of the offence.

(8) In this rule –

shellfish docket number means the serial number printed on a shellfish docket.

47. Use of fish caufs – purge site records

(1) A person who is the holder of a fishing licence (class shellfish) must ensure that, for each fish cauf used for the purposes of the licence, each of the following matters is recorded in a single combined document (*purge site record*):

- (a) the date (and precise time) of each placement of shellfish in the fish cauf;
- (b) the kind and quantity of the shellfish so placed;
- (c) the date (and precise time) of each removal of shellfish from the fish cauf;
- (d) the kind and quantity of the shellfish so removed;
- (e) the quantity of daily stock, for each kind of shellfish, in the fish cauf.

Penalty: Grade 3 penalty.

(2) A person who is the holder of a fishing licence (class shellfish) must ensure that, before any shellfish are placed in or removed from a fish cauf used for the purposes of the licence, the person who is to do the actual physical placement or removal has possession of the purge site record, to enable that fishing activity to be recorded thereon as required by subrule (1) .

Penalty: Grade 3 penalty.

(3) An entry in a purge site record relating to the matters referred to in subrule (1)(a) and (b) is to be made before the end of the day on which the shellfish concerned are placed in the relevant fish cauf.

(4) An entry in a purge site record relating to the matters referred to in subrule (1)(c) and (d) is to be made before the shellfish concerned leave the landing area to which they are first taken following their removal from the relevant fish cauf.

(5) An entry in a purge site record relating to the matter referred to in subrule (1)(e) is to be made before the end of each day during which stock is held in the relevant fish cauf.

(6) The holder of a fishing licence (class shellfish) must keep a purge site record, in good condition, for at least 5 years after the date on which the last entry is required to be made in it under this rule.

Penalty: Grade 2 penalty.

(7) A person who places or removes shellfish in or from a fish cauf for the purposes of a fishing licence (class shellfish) must not make any record of that fishing activity required under this rule other than in that purge site record for the relevant fish cauf.

Penalty: Grade 1 penalty.

PART 8 - Miscellaneous

48. Weighing and recording quantity of shellfish

(1) This rule applies to a person who is –

- (a) the holder of a fishing licence (class shellfish); and
- (b) the purge supervisor of a fishing licence (class shellfish); and
- (c) the holder of a fish processing licence.

(2) The person must, in completing a docket or keeping a record under these rules, record the quantity of shellfish by reference to –

- (a) if the shellfish allocation for the licence is expressed as whole weight, the whole weight of the shellfish in kilograms; or
- (b) if the shellfish allocation for the licence is expressed as a number, the number of shellfish.

Penalty: Grade 3 penalty.

49. Transfer of shellfish to marine farm

A person who is the holder or purge supervisor of a fishing licence (class shellfish) must not sell or transfer shellfish of any kind to the holder of a marine farming licence whose licence is not endorsed for that kind of shellfish.

Penalty: Grade 2 penalty.

50. Public notices

Any public notice under these rules may be –

- (a) combined with another such notice; and
- (b) revoked by another such notice.

51. Infringement notice offences and penalties

For section 234 of the Act –

- (a) an offence under a rule specified in column 2 of Schedule 1 is prescribed as an offence in respect of which an infringement notice may be served; and
- (b) the penalty specified in column 3 of that Schedule is the applicable penalty for that offence.

SCHEDULE 1 - Infringement notice offences and penalties

Rule 51

Column 1 Item	Column 2 Rule	Column 3 Penalty (penalty units)
1.	Rule 8(1)	5
2.	Rule 9(2)	5
3.	Rule 9(3)	5
4.	Rule 10(2)	5
5.	Rule 10(3)	5
6.	Rule 11(1)	5
7.	Rule 11(2)	5
8.	Rule 11(3)	5
9.	Rule 12(4)	5
10.	Rule 12(5)	5
11.	Rule 13(1)	2
12.	Rule 14(1)	2
13.	Rule 17(1)	5
14.	Rule 17(3)	5
15.	Rule 18(2)	5
16.	Rule 19(2)	3
17.	Rule 19(3)	3
18.	Rule 19(4)	2
19.	Rule 19(5)	2
20.	Rule 19(6)	2
21.	Rule 19(7)	2
22.	Rule 24	5
23.	Rule 25	5
24.	Rule 26	5
25.	Rule 27	5
26.	Rule 28	5
27.	Rule 29	5
28.	Rule 30	5
29.	Rule 31(1)	4
30.	Rule 31(3)	4
31.	Rule 31(4)	4
32.	Rule 32	3
33.	Rule 33(1)	3
34.	Rule 34(1)	3
35.	Rule 34(2)	3
36.	Rule 35	3
37.	Rule 36(1)	3
38.	Rule 36(2)	2
39.	Rule 37(1)	2
40.	Rule 37(2)	2
41.	Rule 38	2
42.	Rule 40(1)	2
43.	Rule 41	2
44.	Rule 42	2
45.	Rule 44	5
46.	Rule 45(1)	3
47.	Rule 45(2)	2
48.	Rule 46(2)	3
49.	Rule 46(3)	3
50.	Rule 46(4)	2
51.	Rule 46(5)	3
52.	Rule 46(6)	1

53.	Rule 47(1)	3
54.	Rule 47(2)	3
55.	Rule 47(6)	2
56.	Rule 47(7)	3
57.	Rule 48(2)	3
58.	Rule 49	2

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