

Contents (2017 - 57)

Fisheries (Marine Plant) Rules 2017

Long Title

Part 1 - Preliminary

1. Short title
2. Commencement
3. Interpretation
4. Application of rules
5. Duration of rules
6. Classes of fishing licence

Part 2 - General Management of Fishery

7. Closed and open seasons
8. Closure of fishery to certain fishing activities

Part 3 - Licences

Division 1 - General

9. Licences are non-transferable
10. Restriction on granting subsequent marine plant fishing licences

Division 2 - Fishing licence (marine plant)

11. Authority of fishing licence (marine plant)
12. Endorsement of fishing licence (marine plant)

Division 3 - Fishing licence (King Island kelp)

13. Authority of fishing licence (King Island kelp)
14. Granting of fishing licence (King Island kelp)
15. Cap on number of fishing licences (King Island kelp)

Division 4 - Fishing licence (Undaria)

16. Authority of fishing licence (Undaria)
17. Cap on number of fishing licences (Undaria)

Division 5 - Fishing licence (introduced marine plant)

18. Authority of fishing licence (introduced marine plant)
19. Fishing licence (introduced marine plant)
20. Restriction on fishing licence (introduced marine plant)

Part 4 - Taking and Possessing Marine Plants

21. Taking marine plants for commercial purposes
22. Taking cast native marine plants for non-commercial purposes
23. Possessing cast native marine plants for commercial purposes
24. Removal of cast marine plants constituting public nuisance
25. Protection of native marine plants attached to seabed, &c.
26. Taking introduced marine plants in State waters by diving
27. Possession and sale of Undaria

28. Preventing spread of Undaria

Part 5 - Processing

29. Endorsement of fish processing licences

30. Undaria endorsement on fish processing licence

31. Processing of marine plants generally

32. Processing of introduced marine plants

33. Processing of kelp from King Island

34. Processing of kelp from Granville Harbour area

Part 6 - Marine Plant Commercial Fishing Docket

35. Interpretation

36. Completion of marine plant commercial fishing docket

37. Completed marine plant commercial fishing docket

Part 7 - Miscellaneous

38. Use of assistants

39. Use of fishing vessel

40. Infringement notices and penalties

Schedule 1 - Infringement notices and penalties

Fisheries (Marine Plant) Rules 2017

Version current from 1 September 2017 to date (accessed 17 October 2018 at 16:25)



Fisheries (Marine Plant) Rules 2017

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

16 August 2017

JEREMY ROCKLIFF

Minister for Primary Industries and Water

PART 1 - Preliminary

1. Short title

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

2. Commencement

These rules take effect on 1 September 2017.

3. Interpretation

In these rules –

Act means the Living Marine Resources Management Act 1995 ;

assistant, in relation to a marine plant fishing licence, means a person who assists the supervisor of the licence in carrying out an activity under the authority of that licence;

Blackman Bay means the waters within the area bounded –

(a) in the west by the western entrance of the Denison Canal; and

(b) in the east by an imaginary straight line from the southern extreme of Long Spit due east to the opposite shore of Little Chinaman Bay;

cast, in relation to a marine plant, means a marine plant that has been cast onshore by wave action, tidal action, storm action or other natural forces but does not include a marine plant attached to the seabed or other substrate;

fishing licence (commercial dive) means a licence of that class referred to in rule 7(a) of the Fisheries (Commercial Dive) Rules 2011 ;

fishing licence (introduced marine plant) – see rule 6(a)(i) ;

fishing licence (King Island kelp) – see rule 6(a)(ii) ;

fishing licence (marine plant) – see rule 6(a)(iii) ;

fishing licence (Undaria) – see rule 6(a)(iv) ;

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 ;

introduced marine plant means –

(a) a marine plant of the genus *Grateloupia* and the species *turuturu*; and

(b) *Undaria*; and

(c) such other marine plants as the Secretary by public notice may specify for the purposes of this definition;

kelp means a marine plant of the order Laminariales or Fucales;

kind includes genus, family and order;

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

marine plant means –

(a) algae and seaweed of the following divisions:

- (i) Chlorophyta (green algae);
- (ii) Heterokontophyta of the class Phaeophyceae (brown algae);
- (iii) Rhodophyta (red algae); or

(b) seagrass of the division Magnoliophyta;

marine plant fishery means the taking and possession, under the Act, of marine plants by any person in State waters;

marine plant fishing licence means –

- (a) a fishing licence (introduced marine plant); or
- (b) a fishing licence (King Island kelp); or
- (c) a fishing licence (marine plant); or
- (d) a fishing licence (Undaria);

native marine plant means marine plants other than introduced marine plants;

sporophyll means that part of an algal stem containing or producing spores;

substrate includes a reef, tidal rock ledge, underwater ledge and cliff face;

Undaria means –

- (a) marine alga of the genus *Undaria* and the species *pinnatifida* (commonly known as wakame); and
- (b) sporophyll of that alga;

Undaria zone means those State waters adjacent to the east coast of the mainland of Tasmania from Binalong Bay 41° 14' 11.73"S and 148° 17' 29.62"E in the North to Whale Head in the South.

4. Application of rules

These rules apply to the marine plant fishery.

5. Duration of rules

These rules continue in effect for 10 years.

6. Classes of fishing licence

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

- (a) class marine plant –
 - (i) fishing licence (introduced marine plant);
 - (ii) fishing licence (King Island kelp);
 - (iii) fishing licence (marine plant);
 - (iv) fishing licence (Undaria);
- (b) class commercial dive, fishing licence (commercial dive).

PART 2 - General Management of Fishery

7. Closed and open seasons

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

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

(2) A person must not take marine plants from State waters that are closed to the marine plant fishery for that kind of marine plant.

Penalty: Grade 3 penalty.

8. Closure of fishery to certain fishing activities

(1) The Minister, by public notice, may determine the marine plant fishery or a part of the marine plant 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 contravene a determination in force under subrule (1) .

Penalty: Grade 3 penalty.

PART 3 - Licences

Division 1 - General

9. Licences are non-transferable

A marine plant fishing licence is not transferable.

10. Restriction on granting subsequent marine plant fishing licences

(1) This rule applies if a person holding a fishing licence (King Island kelp) or a fishing licence (Undaria) –

(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 fishing licence (King Island kelp) or a fishing licence (Undaria) of the same kind as the expired licence.

Division 2 - Fishing licence (marine plant)

11. Authority of fishing licence (marine plant)

A fishing licence (marine plant) authorises its holder to take and possess, for commercial purposes, marine plants in accordance with the licence.

12. Endorsement of fishing licence (marine plant)

(1) The Minister may endorse a fishing licence (marine plant) to allow the holder of the licence to –

(a) take the species or types of marine plants specified in the endorsement; and

(b) take marine plants from areas specified in the endorsement; and

(c) transfer marine plants taken under the authority of the licence to the holder of a fish processing licence specified in the endorsement.

(2) The holder of a fishing licence (marine plant) that is endorsed under subrule (1) must not take or transfer marine plants otherwise than in accordance with that endorsement when operating under the authority of that licence.

Penalty: Grade 2 penalty.

Division 3 - Fishing licence (King Island kelp)

13. Authority of fishing licence (King Island kelp)

A fishing licence (King Island kelp) authorises its holder to take and possess, for commercial purposes, cast kelp from King Island in accordance with the licence.

14. Granting of fishing licence (King Island kelp)

A fishing licence (King Island kelp) may only be granted to a person if the person lodging the application for the licence is the holder of a fish processing licence with an endorsement that authorises its holder to process kelp on King Island.

15. Cap on number of fishing licences (King Island kelp)

The Minister is to ensure that no more than one fishing licence (King Island kelp) is in force at any one time.

Division 4 - Fishing licence (Undaria)

16. Authority of fishing licence (Undaria)

A fishing licence (Undaria) authorises its holder to –

- (a) take Undaria from the Undaria zone in accordance with the licence; and
- (b) possess Undaria in accordance with the licence.

17. Cap on number of fishing licences (Undaria)

The Minister is to ensure that no more than one fishing licence (Undaria) is in force at any one time.

Division 5 - Fishing licence (introduced marine plant)

18. Authority of fishing licence (introduced marine plant)

Subject to rule 20 , a fishing licence (introduced marine plant) authorises its holder to –

- (a) take introduced marine plants, from areas specified in an endorsement on the licence, by means of diving or such other means as are endorsed on the licence; and
- (b) possess introduced marine plants in accordance with the licence.

19. Fishing licence (introduced marine plant)

(1) The Minister may endorse a fishing licence (introduced marine plant) to allow the holder of the licence to –

- (a) take the species or types of introduced marine plants specified in the endorsement; and
- (b) take introduced marine plants from areas specified in the endorsement.

(2) The holder of a fishing licence (introduced marine plant) that is endorsed under subrule (1) must not take introduced marine plants otherwise than in accordance with that endorsement when operating under the authority of that licence.

Penalty: Grade 2 penalty.

20. Restriction on fishing licence (introduced marine plant)

(1) In this rule –

restricted zone means the State waters inshore of an imaginary line extending from Cape Degerando straight to Cape Sonnerat thence straight to Mistaken Cape and straight to Cape Frederick Hendrick, other than the waters of Blackman Bay west of an imaginary straight line from the southernmost extent of the spit to the northernmost part of Little Chinaman Bay.

(2) The holder of a fishing licence (introduced marine plant) endorsed with Undaria must not take Undaria from State waters in the restricted zone.

Penalty: Grade 2 penalty.

PART 4 - Taking and Possessing Marine Plants

21. Taking marine plants for commercial purposes

(1) In this rule –

exempt business means a business that takes less than 100kg of cast native marine plants in a licensing year.

(2) A person must not take marine plants from State waters for commercial purposes unless the person is –

(a) acting in accordance with an authorisation; or

(b) employed or engaged by an exempt business to take marine plants for the purposes of that business.

Penalty: Grade 2 penalty.

22. Taking cast native marine plants for non-commercial purposes

A person must not take, for non-commercial purposes, more than 100kg of cast native marine plants on any one day unless that person is acting in accordance with an authorisation.

Penalty: Grade 2 penalty.

23. Possessing cast native marine plants for commercial purposes

(1) A person must not possess, for commercial purposes, more than 100kg of cast native marine plants cumulatively in a licensing year.

Penalty: Grade 2 penalty.

(2) Subrule (1) does not apply to –

(a) the holder of a fish processing licence; or

(b) a person who is acting under the authority of a marine plant fishing licence; or

(c) a person who purchased or received the cast native marine plants from a person referred to in paragraph (a) or (b).

24. Removal of cast marine plants constituting public nuisance

(1) The Secretary, by instrument in writing, may authorise a person to remove cast marine plants from an area specified in that instrument, if the Secretary reasonably considers that the marine plants in that area constitute a public nuisance.

(2) The Secretary may make an authorisation under subrule (1) subject to such conditions as the Secretary thinks fit.

(3) The holder of an authorisation under subrule (1) must comply with the conditions of that authorisation.

Penalty: Grade 2 penalty.

25. Protection of native marine plants attached to seabed, &c.

A person must not take a native marine plant that is attached to the seabed or other substrate.

Penalty: Grade 3 penalty.

26. Taking introduced marine plants in State waters by diving

A person must not take introduced marine plants in State waters for commercial purposes by means of diving unless the person –

- (a) is the holder of a fishing licence (commercial dive); and
- (b) is authorised under a fishing licence (introduced marine plant) or a fishing licence (Undaria) to take and possess that species or type of marine plant.

Penalty: Grade 3 penalty.

27. Possession and sale of Undaria

- (1) In this rule –

imported Undaria means Undaria that was –

- (a) lawfully imported into the State; and
- (b) not taken in State waters.

- (2) Subject to these rules, a person may be in possession of, or sell, Undaria that –

- (a) has been taken under the authority of a fishing licence (Undaria) or fishing licence (introduced marine plant); or
- (b) is imported Undaria.

28. Preventing spread of Undaria

- (1) A person must not knowingly place or release Undaria in State waters.

Penalty: Grade 2 penalty.

- (2) A person must not place or release Undaria on any land, or in any waters, from where there is a reasonable likelihood that the Undaria could enter State waters.

Penalty: Grade 2 penalty.

PART 5 - Processing

29. Endorsement of fish processing licences

(1) The Secretary may endorse a fish processing licence to allow the holder of the licence to process marine plants that have been taken from an area specified in that endorsement.

(2) The holder of a fish processing licence that is endorsed under subrule (1) must not process marine plants except in accordance with that endorsement.

Penalty: Grade 2 penalty.

30. Undaria endorsement on fish processing licence

A fish processing licence that has an Undaria endorsement authorises its holder to possess and process Undaria in accordance with that licence.

31. Processing of marine plants generally

The holder of a fish processing licence must not have possession of a marine plant for commercial purposes of a particular kind unless the licence specifies that the licence holder may possess that kind of marine plant.

Penalty: Grade 3 penalty.

32. Processing of introduced marine plants

(1) The holder of a fishing licence (introduced marine plant) must not transfer or sell any introduced marine plant taken under the authority of that licence to a person other than the holder of a fish processing licence with an endorsement that authorises its holder to process that kind of introduced marine plant.

Penalty: Grade 3 penalty.

(2) Subrule (1) does not apply to the holder of a fishing licence (introduced marine plant) in respect of introduced marine plant if the introduced marine plant is being transferred or sold for the purposes of export.

33. Processing of kelp from King Island

(1) A person who takes kelp from King Island must not transfer or sell that kelp to the holder of a fish processing licence unless that fish processing licence has an endorsement that authorises its holder to process kelp on King Island.

Penalty: Grade 3 penalty.

(2) The Minister is to ensure that, at any one time, no more than one fish processing licence holder on King Island has a fish processing licence with an endorsement that authorises the licence holder to process kelp.

34. Processing of kelp from Granville Harbour area

(1) In this rule –

Granville Harbour area means the area from Ahrberg Bay 41° 43' 19.61"S, 144° 56' 26.52"E, southwards to the mouth of the Tasman River.

(2) A person who takes kelp from the Granville Harbour area must not transfer or sell that kelp to the holder of a fish processing licence unless that fish processing licence has an endorsement that authorises its holder to process kelp from the Granville Harbour area.

Penalty: Grade 3 penalty.

(3) The Minister is to ensure that, at any one time, no more than one fish processing licence holder has a fish processing licence with an endorsement that authorises the licence holder to process kelp taken from the

Granville Harbour area.

PART 6 - Marine Plant Commercial Fishing Docket

35. Interpretation

In this Part –

holder, in relation to a licence, includes a person authorised as a supervisor in respect of the licence;

marine plant commercial fishing docket means a docket, in an approved form, that –

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

36. Completion of marine plant commercial fishing docket

(1) The holder of a marine plant fishing licence must complete the information relating to the taking of marine plants in a marine plant commercial fishing docket –

- (a) on the day on which the marine plants are taken; and
- (b) before the marine plants are transferred or sold to another person.

Penalty: Grade 2 penalty.

(2) The holder of a marine plant fishing licence must complete the information relating to the taking of marine plants in a marine plant commercial fishing docket –

- (a) in the case of cast marine plants, within 50 metres inland of the high-water mark from where the marine plants were taken; or
- (b) in the case of marine plants that have not been cast, within a radius of 50 metres on the landward side from the high-tide mark closest to the point of landing.

Penalty: Grade 2 penalty.

(3) The holder of a marine plant fishing licence must ensure that information entered on a marine plant commercial fishing docket pursuant to this rule is recorded and maintained in a clear and legible manner.

Penalty: Grade 2 penalty.

37. Completed marine plant commercial fishing docket

The holder of a marine plant fishing licence must –

- (a) within 7 days after the end of each month, forward the pink sheet of the completed marine plant commercial fishing docket for that month to the Secretary; and
- (b) retain the white sheet of the completed marine plant commercial fishing docket in good condition for at least 5 years.

Penalty: Grade 2 penalty.

PART 7 - Miscellaneous

38. Use of assistants

(1) The supervisor of a marine plant fishing licence must not allow an assistant to participate in an activity under the authority of that licence unless the assistant is participating in the activity under the immediate personal supervision of the supervisor.

Penalty: Grade 3 penalty.

(2) The supervisor of a marine plant fishing licence who is participating in an activity under the authority of that licence must not supervise more than 2 assistants for the purposes of that licence at any one time.

Penalty: Grade 3 penalty.

39. Use of fishing vessel

The holder of a fishing licence (marine plant) or holder of fishing licence (King Island kelp) must not possess native marine plants on a fishing vessel unless the possession is authorised by an endorsement on the licence.

Penalty: Grade 2 penalty.

40. Infringement notices 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 notices and penalties

Rule 40

Column 1 Item	Column 2 Rule	Column 3 Penalty (penalty units)
1.	Rule 7(2)	2
2.	Rule 8(2)	2
3.	Rule 12(2)	2
4.	Rule 19 (2)	2
5.	Rule 20 (2)	2
6.	Rule 21(2)	2
7.	Rule 22	2
8.	Rule 23(1)	2
9.	Rule 24(3)	2
10.	Rule 25	2
11.	Rule 26	2
12.	Rule 28(1)	2
13.	Rule 28(2)	2
14.	Rule 29(2)	2
15.	Rule 31	2
16.	Rule 32 (1)	2
17.	Rule 33(1)	3
18.	Rule 34(2)	3
19.	Rule 36(1)	2
20.	Rule 36(2)	2
21.	Rule 36(3)	2
22.	Rule 37	2
23.	Rule 38(1)	2
24.	Rule 38(2)	2
25.	Rule 39	2

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

Notified in the *Gazette* on 23 August 2017