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14
Fisheries (Abalone) (Amendment) Regulations 1997

The Governor in Council makes the following Regulations:

Dated: 22 April 1997

Responsible Minister:

PATRICK McNAMARA
Minister for Agriculture and Resources

SHARNE BRYAN
Clerk of the Executive Council

1. Objectives

The objectives of these Regulations are—

(a) to amend the Fisheries (Abalone) Regulations 1996 to make provision for the Secretary to issue authorities to abalone processors and abalone storers to undertake certain activities in relation to the weighing, sale, consignment, reporting or processing of abalone which, in normal circumstances would contravene the Regulations; and

(b) to make provision for the landing of abalone in bags; and

(c) to include additional definitions and clarify the intention of other matters in those Regulations; and

(d) to make other minor amendments to those Regulations.
2. Authorising provision

These Regulations are made under section 81 of the Fisheries Act 1968.

3. Principal Regulations

In these Regulations, the Fisheries (Abalone) Regulations 1996 are called the Principal Regulations.

4. Amendments to definitions

In regulation 4 of the Principal Regulations—

(a) after the definition of "Act" insert—

"approved AQIS number" means the registered establishment number issued by the Australian Quarantine and Inspection Service of the Commonwealth Department of Primary Industries and Energy; and

(b) after the definition of "approved weighing station" insert—

"bag" means a bag of a type approved by the Secretary, which can be sealed by means of one bin tag; and

(c) after the definition of "bin tag" insert—

"gross weight" means—

(a) in respect of abalone contained in bins, the total weight of the abalone, bins, bin lids and any bin inserts and including any water or blood contained in the bins;

(b) in respect of abalone contained in bags, the total weight of the abalone, bags and any bin inserts and including any water or blood contained in the bags;
"net weight" means—

(a) in respect of whole unshucked abalone, the weight of the whole abalone including the viscera, shell and any marine growth attached to the shell; and

(b) in respect of shucked abalone, other than abalone in cans, the weight of the abalone meat not including any brine or other fluid; and

(c) in respect of abalone in cans, the drained weight of the abalone meat in the can; and

(d) after the definition of "stock record book" insert—

"tare weight" means the weight—

(a) of all bins, bin lids and bin inserts; or

(b) of all bags and bin inserts—

not including any abalone contained in the bins or bags;.

5. Size limits for abalone taken by abalone licence holders from Port Phillip Bay

Before regulation 9(2) of the Principal Regulations insert—

"(1A) The waters westward of a straight line from the shoreward end of St Leonard's jetty to the shoreward end of the Portsea jetty are
excluded from the waters of Port Phillip Bay in relation to abalone which may be taken by the holder of an abalone licence.

6. Amendments to conditions, limitations and restrictions of abalone licence

(1) In regulation 17(1)(h) of the Principal Regulations, after "a bin" insert "or bag".

(2) In regulation 17(1) of the Principal Regulations, for paragraph (j) substitute—

"(j) must ensure that all abalone taken by him or her are placed—

(i) in bins and that each bin is covered and sealed with a bin lid by means of 1 or 2 bin tags affixed to both the bin and the bin lid in such a manner that the bin lid cannot be removed from the bin or that abalone cannot be put into or removed from the bin (other than in accordance with these Regulations); or

(ii) into bags and sealed by means of 1 bin tag affixed in such a manner that abalone cannot be removed from or put into the bag (other than in accordance with these Regulations); and"

(3) For regulation 17(1)(k) of the Principal Regulations substitute—

"(k) after sealing—

(i) a bin of abalone with a bin lid and a bin tag or tags; or

(ii) a bag of abalone with a bin tag—

must not remove, damage or break the bin tag or remove abalone from or add abalone to the bin or bag; and"
(4) In regulation 17(1)(l) of the Principal Regulations—

(a) for "30" substitute "60"; and

(b) in sub-paragraph (i)(A), after "all bins" insert "or bags"; and

(c) in sub-paragraph (i)(B), for "including bin lids and bin inserts" substitute "or bags"; and

(d) for sub-paragraph (ii) substitute—

"(ii) must place the duplicate and triplicate copies of the abalone docket into a waterproof envelope approved or provided by the Secretary, seal the envelope and affix it to the bin or bag to which is attached the highest numbered bin tag; and".

(5) In regulation 17(1)(m) of the Principal Regulations—

(a) for "transferred or delivered to a person" substitute "first processed"; and

(b) for paragraph (vii) substitute—

"(vii) return the duplicate and triplicate copies of the abalone docket to the waterproof envelope on the bin or bag that those copies were taken from; and".

(6) In regulation 17(1)(n) of the Principal Regulations, for "transferred or delivered to a person" substitute "first processed".

(7) In regulation 17(1)(p) of the Principal Regulations—

(a) for "transferred or delivered to a person" substitute "to be first processed"; and
Fisheries (Abalone) (Amendment) Regulations 1997
S.R. No. 34/1997

(b) in sub-paragraph (i), for "the person is"
substitute "the abalone are transferred or
delivered only to".

7. Amendments in relation to authority issued by Secretary

(1) For regulation 17(2) of the Principal Regulations substitute—

"(2) Sub-regulation (1) does not apply to a person who is acting in accordance with a written authority of the Secretary issued under regulation 18A, to the extent specified in the authority."

(2) Regulations 17(3), (4) and (5) of the Principal Regulations are revoked.

8. Amendments to conditions, limitations and restrictions of abalone licence

In regulation 18(1)(d) of the Principal Regulations, for "72 hours" substitute "7 days".

9. Insertion of regulation 18A

After regulation 18 of the Principal Regulations insert—

"18A. Secretary may issue authority for exemption from regulation 17 or 18

(1) The Secretary may, in writing, authorise a person who is the holder of an abalone processor's licence to undertake activities which would otherwise contravene regulation 17 or 18.

(2) In issuing an authority, the Secretary must specify—

(a) the provision of the relevant regulation to which the authority applies; and
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S.R. No. 34/1997

(b) the circumstances in which the authority applies; and

(c) the period during which the authority applies; and

(d) the place at which the authority applies.

(3) In issuing an authority, the Secretary may impose conditions relating to the taking, landing, weighing, reporting or transporting of abalone."

10. Amendments to conditions, limitations and restrictions of abalone processor's licence

(1) In regulation 20(1)(c) of the Principal Regulations, after "all bins" insert "or bags".

(2) In regulation 20(1)(d) of the Principal Regulations—

(a) after "bin tag" insert ", or a bag of abalone is not sealed with a completely intact bin tag";

and

(b) in sub-paragraph (ii), after "to any bin" insert "or bag".

(3) In regulation 20(1)(g) of the Principal Regulations, after "to, any bin" insert "or bag".

(4) In regulation 20(1)(h) of the Principal Regulations, after "the bin" insert "or bag".

(5) For regulation 20(2) of the Principal Regulations substitute—

"(2) Sub-regulation (1) does not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 23A, to the extent specified in the authority.".
11. **Consequential amendment**

For regulation 21(3) of the Principal Regulations **substitute**—

"(3) Sub-regulations (1) and (2) do not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 23A, to the extent specified in the authority.".

12. **Amendments to conditions, limitations and restrictions of abalone processor’s licence**

In regulation 22 of the Principal Regulations—

(a) before "The holder" **insert** "(1)";

(b) for paragraph (a)(i) **substitute**—

"(i) at the time of the sale or consignment, issue a receipt or invoice showing, in respect of all abalone sold or consigned, all of the details specified in regulation 29(1) except the name and address of the person who supplied the abalone to the seller; and";

(c) in paragraph (a)(iii), before "packaging" **insert** "innermost";

(d) at the end of the regulation **insert**—

"(2) Sub-regulation (1) does not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 23A, to the extent specified in the authority.".

13. **Amendments to conditions, limitations and restrictions of abalone processor's licence**

(1) In regulation 23(1)(n) of the Principal Regulations, for "72 hours" **substitute** "7 days".
(2) In regulations 23(1)(p)(i) and (ii) of the Principal Regulations, after "abalone transfer certificate," **insert** "an abalone docket, ".

(3) After regulation 23(2) of the Principal Regulations **insert**—

"(3) Sub-regulation (1) does not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 23A, to the extent specified in the authority.".

14. **Insertion of regulation 23A**

After regulation 23 of the Principal Regulations **insert**—

"23A. Secretary may issue authority for exemption from regulation 20, 21, 22 or 23

(1) The Secretary may, in writing, authorise a person who is the holder of an abalone processor's licence to undertake activities which would otherwise contravene regulation 20, 21, 22 or 23.

(2) In issuing an authority, the Secretary must specify—

(a) the provision of the relevant regulation to which the authority applies; and

(b) the circumstances in which the authority applies; and

(c) the period during which the authority applies; and

(d) the place at which the authority applies.

(3) In issuing an authority, the Secretary may impose conditions relating to the receiving, transporting, weighing, sale, consignment, reporting, storage or processing of abalone.".

15. **Consequential amendment**
For regulation 25(3) of the Principal Regulations substitute—

"(3) Sub-regulations (1) and (2) do not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 27A, to the extent specified in the authority.".

16. Amendments to conditions, limitations and restrictions of abalone storer’s licence

In regulation 26 of the Principal Regulations—

(a) before "The holder" insert "(1)";

(b) at the end of the regulation insert—

"(2) Sub-regulation (1) does not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 27A, to the extent specified in the authority.".

17. Amendments to conditions, limitations and restrictions of abalone storer’s licence

(1) In regulation 27(1)(n) of the Principal Regulations, for "72 hours" substitute "7 days".

(2) After regulation 27(2) of the Principal Regulations insert—

"(3) Sub-regulation (1) does not apply to a person acting in accordance with a written authority of the Secretary issued under regulation 27A, to the extent specified in the authority.".
18. **Insertion of regulation 27A**

After regulation 27 of the Principal Regulations insert—

"27A. Secretary may issue authority for exemption from regulation 25, 26, or 27"

(1) The Secretary may, in writing, authorise a person who is the holder of an abalone storer’s licence to undertake activities which would otherwise contravene regulation 25, 26 or 27.

(2) In issuing an authority, the Secretary must specify—

(a) the provision of the relevant regulation to which the authority applies; and

(b) the circumstances in which the authority applies; and

(c) the period during which the authority applies; and

(d) the place at which the authority applies.

(3) In issuing an authority, the Secretary may impose conditions relating to the receiving, weighing, consignment, reporting or storage of abalone."

19. **Offence to sell abalone without receipt or invoice showing prescribed details**

In regulation 29(1) of the Principal Regulations—

(a) after "receipt" (wherever occurring) insert "or invoice"; and

(b) for paragraph (a) substitute—

"(a) his or her name; and"; and
(c) for paragraphs (g) and (h) substitute—

"(g) the name and address of the person who processed the abalone or the trader identification number or approved AQIS number of the place where the abalone was processed.".

20. Transport of abalone from licensed diver interstate

For regulation 30(a) of the Principal Regulations substitute—

"(a) contained in—

(i) bins that are each sealed with a bin lid in such a manner that the bin lid cannot be removed or abalone removed from, or added to, the bin while the bin lid and bin tag are still attached and without breaking the bin tag; or

(ii) a bag that is sealed with a bin tag in such a manner that abalone cannot be removed from or added to the bag without breaking the bin tag; and"

21. Revocation of regulation 32(5)

Regulation 32(5) of the Principal Regulations is revoked.

22. Amendments to abalone docket

In Schedule 2 to the Principal Regulations—

(a) in Part B—

(i) for "bins of abalone landed" substitute "bins or bags of abalone landed"; and

(ii) for "(in kilograms) of bins (including bins lids and bin inserts)" substitute "(in kilograms) of bins or bags"; and
(iii) for "enter number of bins" substitute "enter number of bins or bags"; and

(iv) for "affixed to bins of abalone landed" substitute "affixed to bins or bags of abalone landed"; and

(b) in Part C omit "of abalone" (wherever occurring); and

(c) in Part D omit "of unshucked abalone".

23. Amendments to Schedule 4

In Schedule 4 to the Principal Regulations, for Table 4 substitute—

TABLE 1

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<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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<tr>
<td>A total of 5 kilograms of abalone, but not exceeding the individual limit specified in column 2 in respect of abalone in the form specified in column 3</td>
<td>1 kilogram</td>
<td>Dried abalone</td>
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NOTES

1 S.R. No. 26/1996.