

Fisheries Act 1995

FISHERIES NOTICE 2021

I, Travis Dowling, Chief Executive Officer of the Victorian Fisheries Authority, as delegate of the Minister for Fishing and Boating and having undertaken consultation in accordance with section 3A of the **Fisheries Act 1995** (the Act), make the following Fisheries Notice under Section 152 of that Act:



Date: 22 / 06 / 2021

Travis Dowling
Chief Executive Officer
Victorian Fisheries Authority

FISHERIES (ROCK LOBSTER TAGGING) NOTICE 2021

1. *Title*

This Notice may be cited as the Fisheries (Rock Lobster Tagging) Notice 2021.

2. *Objectives*

The objectives of this Notice are –

- (a) to specify measures for the protection of rock lobster through the continuation of a trial tagging system to quantify the recreational take of rock lobster; and
- (b) to fix and enforce catch limits for rock lobsters that are possessed by a fisher without the use of rock lobster tags.

3. *Authorising provision*

This Notice is made under sections 68A and 152 of the Act.

4. *Commencement*

This Notice comes into operation on 1 July 2021.

5. *Application*

This notice does not apply to –

- (a) a person acting under a Rock Lobster Fishery Access Licence; or
- (b) an authorised officer or employee of the Victoria Fisheries Authority (VFA) in the execution of that person's power, function or duty under the Act.

6. *Definitions*

- (1) In this Fisheries Notice –

“**CEO**” means the Chief Executive Officer of the VFA;

“**tag season**” means a period commencing on 16 November and ending at midnight on the following 15 November (inclusive of closed season between 15 September to 15 November);

“**location**” in relation to tag use means the eastern or western waters of the State, divided at Apollo Bay (longitude: 143°40'E);

“**registered user**” means a person who has applied to use rock lobster tags in a manner approved by the CEO of the VFA and who has a valid VicRLTag account;

“rock lobster tag” means a tag issued by the Victorian Government for attaching to rock lobster taken for non-commercial purposes;

“tag number” means the unique identification number stamped on or otherwise affixed to a rock lobster tag by the Victorian Government;

“transfer” means the reallocation of one or more unused tags from one person to another;

“unused rock lobster tag” means a tag that has not been attached to a rock lobster, and is not broken or otherwise damaged;

“use a tag” means attach the tag to the base of the antenna of a rock lobster in such a manner that the tag cannot be removed without being broken.

7. Issue and expiry of rock lobster tags

- (1) The VFA may issue one or more rock lobster tags to a person if –
 - (a) the person applies for tags in a form approved by the CEO; and
 - (b) the total number of unused tags in the person’s possession at any one time does not exceed 10; and
 - (c) the person has provided a report in accordance with clause 9(1) in relation to all tags previously issued to that person.
- (2) Rock lobster tags remain the property of the VFA.
- (3) Rock lobster tags for the tag season will expire at the end of that season.

8. Transitional provision

A person who has been issued with a rock lobster tag by the CEO before the commencement of this fisheries notice is taken to have been issued with that tag in accordance with clause 7 of this fisheries notice.

9. Reporting requirements

- (1) For each rock lobster tag issued to a person, the person must furnish an accurate return to the VFA containing the following information in the manner required by the CEO –
 - (a) the tag number;
 - (b) whether the tag was used, lost or not used; and
 - (c) the location at which the tag was used;
 - (d) the date the tag was used; and
 - (e) the carapace length of the lobster to which the tag was attached.

Penalty: 20 penalty units

Note: It is an offence under sections 119A and 119B of the Act to furnish a return that contains false or misleading information. Various penalties apply.

- (2) A return under sub-clause (1) must be furnished no later than midnight on 15 November for the tag season.
Penalty: 20 penalty units.
- (3) A person who fails to furnish a return in accordance with sub-clauses (1) and (2) is not eligible to receive tags for the next tag season.

10. Use of approved rock lobster tags

- (1) A person must not take or attempt to take rock lobster unless –
- (a) the person possesses at least one unused rock lobster tag issued to that person for the current tag season; or
 - (b) the person is under the age of 18 years and is directly supervised by a person to whom paragraph (a) applies.

Penalty: 20 penalty units.

- (2) A person who takes rock lobster must apply a rock lobster tag securely to the base of the antenna of the rock lobster –
- (a) if the rock lobster is caught by any means from a boat, within 5 minutes after being brought to the boat or before the rock lobster is landed, whichever is sooner; or
 - (b) subject to sub-clause (3), if the rock lobster is caught by any means other than from a boat –
 - (i) within 5 minutes after being taken; or
 - (ii) before the rock lobster is put into any basket, bag or receptacle; or
 - (iii) before the rock lobster enters any premises or vehicle; or
 - (iv) within 50 metres of the place where the rock lobster is landed –whichever is sooner.

Penalty: 20 penalty units.

- (3) Sub-clause (2)(b)(i) and (ii) do not apply if the rock lobster is taken by a person engaged in underwater dive fishing until the rock lobster is landed.
- (4) A person must not remove a rock lobster from the point of landing unless a rock lobster tag is attached to the rock lobster.

Penalty: 20 penalty units.

- (5) A person must not attach a rock lobster tag to a rock lobster unless the tag was issued by the VFA for use in the tag season in which the rock lobster is taken.

Penalty: 20 penalty units.

- (6) A rock lobster tag must be attached in such a manner that it cannot be removed without being broken.

Penalty: 20 penalty units.

- (7) A person must not possess a rock lobster that does not have a tag attached unless –
- (a) the tag has been removed for the purposes of consuming the rock lobster and the removed rock lobster tag is in the person's possession; or
 - (b) the rock lobster is accompanied by a rock lobster receipt or an original rock lobster catch disposal record issued in respect of that rock lobster.

Penalty: 20 penalty units.

- (8) A person must not sell, alter, deface, mutilate or reuse a rock lobster tag.

Penalty: 50 penalty units.

- (9) A person must not use or possess an unused rock lobster tag issued to another person unless the person –

- (a) is under the age of 18 years; and
- (b) is directly supervised by the person to whom the tag has been issued.

Penalty: 20 penalty units.

11. *Transferring unused tags to another user*

- (1) A person must not transfer a rock lobster tag to another person unless –
 - (a) the tag is unused; and
 - (b) the other person is a registered user; and
 - (c) the other person possesses fewer than 10 unused tags; and
 - (d) the transfer is done in the manner approved by the CEO and prior to the commencement of any fishing activity.Penalty: 20 penalty units
- (2) A person who accepts an unused rock lobster tag in accordance with this clause must report that tag in accordance with clause 9.

Penalty: 20 penalty units.

12. *Tags not to be re used*

- (1) A person must not use a rock lobster tag that has previously been attached to a rock lobster or that is broken.

Penalty: 20 penalty units.

- (2) This clause does not prevent a person from re-attaching a tag to a rock lobster if the tag has fallen off the rock lobster.

13. *Production of tags when required*

An authorised officer may require a person to produce any unused tags in that person's possession for inspection.

Note: it is an offence under section 111(2)(i) of the Act to contravene or fail to comply with any lawful requirement of an authorised officer. A penalty of 20 penalty units applies.

14. *Possession limit for rock lobster that does not have a tag attached*

- (1) For the purposes of the Act, the catch limit with respect to the possession of rock lobster anywhere in Victoria that does not have a rock lobster tag attached in accordance with clause 10, is zero.

Note: Regulation 367 of the *Fisheries Regulations 2019* prescribes other catch limits with respect to rock lobster.

- (2) Sub-clause (1) does not apply to a person –
 - (a) who possesses rock lobster in accordance with regulation 368 of the Fisheries Regulations 2019; or
 - (b) if the rock lobster tag has been removed for the purposes of consuming the rock lobster and the removed rock lobster tag is in the person's possession; or
 - (c) the rock lobster is accompanied by a rock lobster receipt or an original rock lobster catch disposal record issued in respect of that rock lobster.

15. *Application to fisheries reserves*

For the purposes of section 152(4) of the Act, this notice applies to all fisheries reserves.

16. *Revocation*

Unless sooner revoked, this Notice will be revoked 12 months after it came into operation.