

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 considered the outcome of consultation in accordance with Section 3A of the *Fisheries Act 1995* (the Act), make the following Fisheries Notice under sections 68A and 152 of the Act:

Dated: 17 / 03 / 2021



Travis Dowling
Chief Executive Officer
Victorian Fisheries Authority

FISHERIES (GUMMY AND SCHOOL SHARK) NOTICE 2021

1. Title

This Notice may be cited as the Fisheries (Gummy and School Shark) Notice 2021.

2. Objectives

The objectives of this Notice are to –

- (a) Enable holders of Ocean, Trawl (Inshore), Rock Lobster and Giant Crab Fisheries Access Licences to obtain an endorsement to access an augmented possession limit for take of gummy and school sharks;
- (b) Implement reporting measures for the take of gummy and school sharks under endorsed licences;
- (c) Fix the possession limit for gummy and school sharks taken under non-endorsed licences;
- (d) Fix an upper limit for the aggregated amount of gummy and school shark that may be taken from Victorian coastal waters by endorsed and non-endorsed licence holders and permit holders.

3. Authorising provision

This Notice is made under sections 67, 68A and 152 of the Act.

4. Commencement

This Notice comes into operation on 27 March 2021.

5. Definitions

In this Fisheries Notice –

'aggregated amount' means the total commercial catch of gummy and school shark taken in a licensing year by:

- (i) endorsed and non-endorsed licence holders, or any person acting or purporting to act under an endorsed or non-endorsed licence; and

(ii) holders of a general permit issued under section 49 of the Act, that authorises the take of gummy or school shark;

'CEO' means the Chief Executive Officer of the VFA;

'closed season' with respect to shark is the period between the time a determination under clause 9 comes into effect and the time it is revoked;

'endorsed licence' means an Ocean Fishery Access Licence, Inshore Trawl Fishery Access Licence, Rock Lobster Access Licence or Giant Crab Access Licence that is endorsed in accordance with clause 6;

'licensing year' means a period from 1 April in any year to 31 March of the following year inclusive;

'endorsement notice' means the notice issued by the CEO in accordance with clause 6;

'non-endorsed licence' means an Ocean Fishery Access Licence, Trawl (Inshore) Fishery Access Licence, Rock Lobster Access Licence or Giant Crab Access Licence that has not been endorsed in accordance with clause 6;

'shark' means gummy shark (*Mustelus antarcticus*) and school shark (*Galeorhinus galeus*);

'specified shark details' means for the purposes of clause 8 of this Fisheries Notice –

- (a) the number allocated by the VFA to identify the access licence;
- (b) the date and time of the proposed landing of school and/or gummy shark;
- (c) the number of school and gummy shark proposed to be landed;
- (d) the port at which the shark are proposed to be landed;

'the Act' means the **Fisheries Act 1995**;

'upper limit' for shark means 36 tonnes of gummy shark and school shark combined;

'VFA' means the Victorian Fisheries Authority.

6. ***Endorsement of Licences***

(1) The CEO may issue a notice to the holder of an eligible access licence endorsing the licence to access the augmented possession limit.

(2) An **eligible access licence** means an Ocean Fishery Access Licence, Trawl (Inshore) Fishery Access Licence, Rock Lobster Fishery Access Licence or Giant Crab Fishery Access Licence.

(3) The **augmented possession limit** means the licence holder, on any one day, must not take or possess on board any boat, or land from any boat, more than a total combined number of 5 gummy shark and school shark (of which no more than one shark may be a school shark) – in accordance with clauses 240(1), 270(1), 357(1) (c) and 386 (c) of the *Fisheries Regulations 2019*.

(4) An endorsement under this clause is valid –

- (a) for the term of this fisheries notice; or
- (b) until the licence is transferred; or
- (c) until it is cancelled by the CEO –
whichever is sooner.

(5) The CEO may cancel an endorsement at any time and without notice.

(6) The holder of an endorsed licence must have a copy of the endorsement notice issued to the licence holder in their immediate possession at all times when taking, possessing, landing or transporting shark taken under the licence.

Penalty: 50 penalty units.

7. Possession limit for shark

(1) For the purposes of the Act, the catch limit with respect to –

- (a) the taking of shark; or
- (b) the possession of shark on board any boat –

by the holder of a non-endorsed licence, or any person acting or purporting to act under the licence is a total combined number of 2.

There are offences in sections 68A and 68B of the Act relating to taking or possessing fish in excess of the catch limit in this fisheries notice. Various penalties apply.

(2) For the purposes of section 67 of the Act, the landing on any day of more than 2 shark of one species or a combination of both species by the holder of a non-endorsed licence, or any person acting or purporting to act under the licence is prohibited.

A failure to comply with a prohibition is an offence under section 67(3) of the Act. A penalty of 100 penalty units or 6 months imprisonment or both applies.

8. Pre-Landing reporting requirements for endorsed licence holders

(1) An endorsed licence holder, or any person acting or purporting to act under the licence, must ensure that the ‘specified shark details’ are provided to the VFA in the manner required by the VFA, and at the period before landing any shark that is specified in the endorsed licence.

Penalty: 50 penalty units

(2) Sub-clause (1) does not apply to an endorsed licence holder, or a person acting or purporting to act under the licence, who –

- (a) has installed on the boat a vessel monitoring system that complies with the conditions set out in Subdivision 1 of Division 2 of Part 17 of the Fisheries Regulations 2019; and
- (b) is operating the vessel monitoring system on the boat in compliance with the conditions set out in Subdivision 1 of Division 2 of Part 17 of the Fisheries Regulations 2019.

9. Determination that upper limit reached

(1) The CEO may determine that the aggregated amount of shark taken by endorsed licence holders and non-endorsed licence holders and permit holders has exceeded the upper limit.

(2) Without limiting the generality of sub-clause (1), a determination may:

- (a) specify that it comes into effect on a particular date and time; and
- (b) be varied or revoked at any time.

(3) The CEO must ensure that a copy of the determination is sent to each endorsed licence holder and each non-endorsed licence holder and permit holders as soon as possible after it is made.

10. Closed season

For the purposes of section 67 of the Act –

- (a) the taking of shark; or
- (b) the possession of shark in or on Victorian waters; or

(c) the landing of shark –

during the closed season by the holder of an access licence or permit, or a person acting or purporting to act under an access licence or permit is prohibited.

Note: Failure to comply with this prohibition is an offence under section 67 of the Fisheries Act 1995. A maximum penalty of 100 penalty units and/or six months imprisonment applies.

11. Application to fisheries reserves

This Notice applies to a Fisheries Reserve, as declared under section 88 of the Act, to the extent that fishing is permitted in the Fisheries Reserve.

12. Revocation

Unless sooner revoked, this Notice will be revoked on 26 March 2022.

Note: Under section 152(3) of the Act, if a provision of this Notice is inconsistent with any regulations, the Fisheries Notice prevails to the extent of the inconsistency. The general size limits and catch limits specified in the *Fisheries Regulations 2009* will continue to apply in circumstances where the size and catch limits specified in this Notice do not apply.