

## **SESSF - GAB Trawl Boat SFR 2019 - amended 02/01/20**

### **Conditions applying to this Statutory Fishing Right**

In addition to the conditions specified by sub section 22(3) of the *Fisheries Management Act 1991* (the Act), and the condition in sub section 42(2) to comply with any log book determination, the following conditions are specified for the purposes of sub section 22(4) paragraph (a):

*Note: Under sub section 22(5) these conditions may be varied, revoked or a further condition specified by written notice from AFMA.*

In addition to the above, the holder must comply with all obligations imposed by the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* in particular:

Section 45:	<i>Purpose of Part 7</i>
Section 46:	<i>General obligations</i>
Section 48:	<i>Obligations relating to carrying of fish</i>
Section 49:	<i>Obligations relating to unloading of fish of a quota species taken under State or Territory permit</i>
Section 50:	<i>Obligations relating to unloading of fish of a quota species before fishing under State or Territory permit</i>
Section 51:	<i>Obligations relating to areas in which holder can fish</i>
Section 52:	<i>Obligations relating to inspection of nominated boat</i>
Section 53:	<i>Obligations relating to disposal of fish landed from the fishery</i>

By section 42B (1) of the Act, Regulations may prescribe conditions that apply to fishing concessions. Regulations have been prescribed in the *Fisheries Management Regulations 2019 (the Regulations)* providing conditions that apply to this fishing concession in particular:

Regulation 33	Nominated boat must be used on trip.
Regulation 37:	Concession holder to ensure that vessel monitoring system is fitted and operating.
Regulation 40:	Concession holder to ensure provision for observer and equipment.
Regulation 41:	Concession holder to ensure observer is able to perform functions.
Regulation 43:	Fish to be disposed of to fish receiver permit holder.*
Regulation 44 - 65:	Catch limits.*
Regulation 67:	Prohibited ways of processing fish.
Regulation 68:	Removal of shark liver.
Regulation 70:	No interaction with protected organism.
Regulation 71:	Reporting interaction with protected organism.
Regulation 72:	Requirements if protected organism is injured by interaction.
Regulation 73:	Requirements if protected organism killed by interaction.

\* not applicable to some concessions

## Definitions

Where mentioned in these conditions:

'Landed' means the act of having brought fish to land or shore.

'Electronic monitoring' means electronic monitoring equipment and peripheral equipment approved by AFMA, that can:

- i. record, store and transmit details of a vessel's position and activity; and
- ii. record, store and transmit details of the e-monitoring system's status; and
- iii. record (including visually) and store all fishing events.

## Species Limitations

1. The holder must not take any species of rock lobster (family *Palinuridae*) or abalone (family *Haliotidae*) in waters relevant to South Australia, unless taken under the authority of a State concession.

## Finfish obligations

2. The holder must not retain snapper (*Chrysophrys auratus*) taken from South Australian waters, unless it is taken in waters of the South East between 1 February and 31 October in any year.

For snapper caught outside South Australian waters, the details for the shot must be recorded in logbooks prior to the vessel entering South Australian waters.

**South Australian waters** means the area described in clause 2 of Schedule 4 of the *Fisheries Management Regulations 2019*.

For the purpose of these conditions, the **waters of the South East** means the area of South Australian waters:

- a) commencing at a point on mean low water closest to 35°38.564' South, 138°31.346' East (Newland Head) then running progressively
- b) south westerly along the geodesic to a location on the mean low water closest to 35°50.486' South, 138°08.094' East (Cape Willoughby)
- c) then generally westerly along the southern coast of Kangaroo Island following the line of mean low water to the location closest to 35°53.188' South, 136°32.0647' East (Vennachar Point)
- d) then south along meridian of longitude 136°32.600' East to the outer limit of the Australian Fishing Zone
- e) then generally south-easterly along the outer limit of the Australian Fishing Zone to the intersection with meridian of longitude 140°57.962' East
- f) then north on that the meridian of longitude 140°57.962' East to its intersection with a point on mean low water closest to 38°03.386' South, 140°57.962' East
- g) then generally westerly following the line of mean low water to the point of commencement.

3. Under the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* the holder must not take any tuna or tuna-like species as specified below:
  - a) Fish of the Family *Scombridae*, except fish of the Genera *Scomberomorus*, *Acanthocybium*, *Grammatorcynus* and *Rastrelliger* (commonly known as mackerels); and
  - b) Fish of the Families *Istiophoridae* (commonly known as marlins) and *Xiphiidae* (commonly known as billfish).
4. Any take of the following Eastern Tuna and Billfish Fishery quota species is to be taken in accordance with the *Eastern Tuna and Billfish Fishery Management Plan 2010*:
  - a) Albacore tuna (*Thunnus alalunga*)
  - b) Bigeye tuna (*Thunnus obesus*)
  - c) Broadbill swordfish (*Xiphias gladius*)
  - d) Striped marlin (*Tetrapturus audax*)
  - e) Yellowfin tuna (*Thunnus albacares*).

### **Shark obligations**

5. The holder must not retain Harrisson's dogfish (*Centrophorus harrissoni*), Endeavour dogfish (*C. moluccensis*), southern dogfish (*C. zeehaani*) and greeneye spurdog (*Squalus chloroculus*). If any of these species are taken alive they must be returned to the water carefully and quickly.
6. Retained and/or landed school shark (*Galeorhinus galeus*) and gummy shark (*Mustelus antarcticus*) must exceed 450 millimetres when measured in a straight line from the middle of the posterior edge of the aftermost gill-slit to the ventral insertion of the caudal fin.
7. If any school shark (*Galeorhinus galeus*) are taken alive, they must be returned to the water alive.
8. The holder must not carry or possess any shark (Class *Chondrichthyes*) dorsal, pectoral, caudal, pelvic or anal fins on board the boat nominated to this concession that are not attached to the shark's carcass.

### **Concurrent conditions**

9. This concession must only be used in conjunction with another concession held by the same holder namely a Southern and Eastern Scalefish and Shark Fishery (SESSF) Quota Statutory Fishing Right or a fishing concession that allows the take of quota species ("that other concession") such that:
  - a) The conditions of that other concession apply (to the extent those conditions are not inconsistent and are capable of doing so) as conditions of this concession.

- b) A breach, suspension or cancellation of that other concession is a breach, suspension or cancellation of this concession.
- c) The conditions of this concession apply (to the extent these conditions are not inconsistent and are capable of doing so) as conditions of that other concession while it is being used in conjunction with this concession.
- d) A breach, suspension or cancellation of this concession is a breach, suspension or cancellation of that other concession.

### **Quota balancing obligations**

- 10. The holder must not be over quota for any quota species.
- 11. The holder is not considered to be over quota for a species if, within 28 days of landing an amount (by weight) in excess of their uncaught quota recorded in the Register, the holder acquires a further amount of quota for that species which is equal to or greater than the excess.
- 12. If the holder is over quota for any quota species AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Act. In deciding whether to suspend or lift the suspension of this concession AFMA must take account of any written explanation from the holder detailing any exceptional circumstances as to why the holder was over quota.
- 13. Any dealing in a quota Statutory Fishing Right by the holder of a boat Statutory Fishing Right or Fishing Permit for the purpose of complying with this condition must be lodged with AFMA duly executed and in the form approved by AFMA, on or before the 28th day from which the excess quota species was landed. For the purpose of determining if the holder is over quota under this condition, any acquisition of quota for a species may only be deemed to have been acquired up to 28 days prior to the date of registration of that acquisition of that quota species.
- 14. If this concession is suspended, unless the holder has acquired and AFMA has then recorded in the Register (but may not deem) an amount of uncaught quota for which the holder is over quota, this concession may, under this condition, again be suspended upon expiration of the earlier suspension.

In this condition:

#### **Definitions**

**Acquire** means receiving statutory fishing rights by registering a dealing by which an amount of statutory fishing rights are permanently or seasonally transferred to the holder; and **acquisition** has a comparable meaning.

**Quota species** has the same meaning as quota species in the applicable management plan for which this concession has been granted and established under the Act.

**Over quota** means when the holder lands an amount of quota species in excess of the available uncaught amount recorded for that species in the holder's name on the Register.

**Register** means the Register of Statutory Fishing Rights kept by AFMA pursuant to section 44 of the Act.

## **Observer/Electronic monitoring obligations**

15. When directed by AFMA the holder must:

- a) give the AFMA Observer Section at least 72 hours' notice of an intention to depart on a fishing trip by telephone (02 6225 5506, or 0427 016 859) or by email: [observers@afma.gov.au](mailto:observers@afma.gov.au); and
- b) ensure that the boat does not leave port until:
  - i. AFMA has notified the holder, or a person acting on behalf of the holder, whether it directs that an observer is to be carried on the boat; and
  - ii. if the boat is equipped with electronic monitoring equipment, an electronic monitoring function test has been completed, AFMA has been notified of the result of the test, and AFMA has notified the holder, or a person acting on behalf of the holder, that it is satisfied that the equipment is working correctly.
- c) ensure that electronic monitoring equipment is installed and operating on the boat nominated to this concession.

*Note 1: These conditions are in addition to the conditions concerning the taking of observers that are prescribed in the Regulations. Those conditions are in Part 7, Division 5, Regulations 38 to 41.*

*Note 2: AFMA may direct under the Regulations that an observer be carried, even if electronic monitoring equipment is installed and is to be operated.*

## **Agent obligations**

16. The holder accepts concurrent liability for all conduct by its servants or agents infringing the Act (or the Regulations, Management Plans or concession conditions made by virtue of that Act) who may be engaged by the holder to conduct on the holder's behalf activity under this concession.
17. Liability for the conduct of the holder's servants or agents arises, even if the conduct may be, or actually is, beyond the scope of the servant or agent's actual or apparent authority where it is a breach that occurs during the conduct of activity authorised by this concession.
18. The holder may avoid concurrent liability for conduct whilst conducting activity under this concession if, but only if, the holder can establish that the infringing conduct could not possibly have been prevented by any action or precaution that the holder might have reasonably taken.
19. The giving of an indemnity by the servant or agent to the holder for any penalties incurred by the holder, for infringing conduct by the servant or agent is not, of itself, a reasonable precaution to prevent infringing conduct.
20. The holder must ensure the master of the boat fishing under the authority of this concession is nominated as an authorised agent for the holder before any fishing operation may take place.

The holder must ensure the authorised agent signing the determined \*Daily Fishing logbook page was the master of the boat (skipper) at the time the recorded fishing operation took

place.

The holder may sign the determined \*Daily Fishing logbook page if they were the master of the boat (skipper) when the recorded fishing operation took place.

If more than one master of the boat is on board the boat during the fishing trip, each master must complete and sign a separate determined \*Daily Fishing logbook page for each of the fishing operations for which they had control over.

*\*These instructions are for all determined Daily Fishing Logs including e-Logs.*

### **Direction obligations**

21. The holder must comply with any Direction that fishing is not to be engaged in in the fishery, or a particular part of the fishery or during a particular period or periods made under sub section 41A of the Act.

### **Temporary orders obligations**

22. The holder must comply with any Temporary Order made under sub section 43(2) of the Act and to the extent that any provision herein is inconsistent with such Temporary Order sub section 43(9) provides that the provision herein is overridden by the Temporary Order until the Temporary Order ceases to have effect.

### **Navigating in closed zones**

23. AFMA may suspend this concession in accordance with this condition, pursuant to section 38(1)(c) of the Act, if it reasonably appears by VMS transmission from the nominated boat, that there is a failure by that boat while in a closed zone for the purposes of regulation 85 of the Regulations, to meet the exempting provisions of regulations 86(2), or (3). Such suspension will then continue until the concession holder provides a full written explanation, to the satisfaction of the delegate responsible for issuing that suspension, of the lawful reason for the boat being in that closed zone at that time, or until the expiration of the suspension under sub regulation 110(2); whichever is the earlier.

### **Gear limitation**

24. This concession authorises the use of the following gear only:

- a) Mid-water trawl, the mesh size of which must not be less than 90 millimetres at any part
- b) Demersal otter trawl, the mesh size of which must not be less than 90 millimetres at any part
- c) Danish seine trawl, the mesh size of which must not be less than 90 millimetres at any part
- d) Pair trawling, the mesh size of which must not be less than 90 millimetres at any part.

25. The holder must ensure that when fishing in waters shallower than 200 metres, a T90 gear

extension and/or codend configuration is fitted for nets mentioned in (a), (b) and (d).

26. For the purposes of fishing under this concession using a net(s), a mesh in a net must be measured in the following way:
- a) Before a measurement is taken, the part of the net to be measured must be soaked in water for at least 5 minutes
  - b) Immediately after the net has been soaked the part of the net to be measured must be suspended vertically. The distance between the inside edge of the knot and the inside edge of the knot in the diagonally opposite corner of the mesh immediately above the first knot must be measured
  - c) The measurement must be rounded to the nearest 1.6 millimetres
  - d) The average of the 10 measurements must be taken as the size of the mesh in the net.

### **Seabird management plan**

27. The holder must not use the nominated boat to fish using demersal otter trawl or midwater trawl methods unless a seabird management plan for the boat has been approved by AFMA.
28. This concession may be suspended without further notice to the holder if the nominated boat departs on a fishing trip and a seabird management plan for the boat has not been approved by AFMA.
29. The seabird management plan must contain measures:
- a) to minimise and avoid where possible, the discharge of biological material whilst fishing gear is in the water to avoid interactions with seabirds; and
  - b) where appropriate, require the holder to use physical mitigation devices in a particular manner to avoid interactions with seabirds.
30. For each fishing trip the holder must:
- a) carry a copy of the AFMA approved seabird management plan on the nominated boat
  - b) strictly comply with the measures and requirements contained in the seabird management plan
  - c) ensure each member of the crew on board the nominated boat is briefed on the content of the seabird management plan before each fishing trip; and
  - d) ensure each member of the crew on board the nominated boat complies with the measures and requirements of the seabird management plan.

### **Other obligations**

31. The holder must provide AFMA with a current emergency contact facility at all times when a nominated boat is being used under this concession.

32. An emergency contact facility must enable AFMA to contact the boat immediately and directly at any time when the boat is at sea, including in the event of an emergency.
33. AFMA must be notified immediately of any change in contact details, by fax sent to (02) 6225 5440 or by email to [licensing@afma.gov.au](mailto:licensing@afma.gov.au); and the boat must not depart on a fishing trip unless AFMA has been so notified of the change in contact details.

*Note: The emergency contact facility may take the form of a satellite phone number, or skipper or crew member's mobile phone number - any number that may be used by AFMA to contact the boat while it is at sea at any time, including in the event of an emergency.*

### **Mandatory AFMA supplied VMS**

#### Direction to Fit

34. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;

- a) make available, within 14 days of the date of the written direction, the boat nominated to this concession for the purposes of installation of an AFMA Vessel Monitoring System unit (AFMA VMS unit) by an AFMA approved technician, and
- b) provide all reasonable assistance to the AFMA approved technician including (but not limited to);
  - i. the provision of an un-interrupted connection to the boat's main power source, and
  - ii. an appropriate position for the mounting of the AFMA VMS unit.

35. When directed by AFMA in writing, the concession holder (or a person acting on the holder's behalf) must;

- a) make available, within 14 days of the date of the direction, the boat nominated to this concession for the purposes of removal of the AFMA VMS unit by an AFMA approved technician, and
- b) provide all reasonable assistance to the AFMA approved technician.

#### Concession holder must not interfere with AFMA VMS Unit

36. The concession holder (or a person acting on the holder's behalf) must not interfere, or attempt to interfere, with the operation of the AFMA VMS Unit.

### **Definitions**

***AFMA VMS Unit*** means a Vessel Monitoring System (VMS) unit wholly owned by AFMA, marked with AFMA identifications and supplied by AFMA and fitted by an AFMA approved technician.

***Interfere*** - for the purposes of these conditions 'interfere' includes, but is not limited to;

- *Physical obstruction or removal of the AFMA VMS unit, or*

- *Deliberately disconnecting or otherwise interfering with the power supply to the AFMA VMS unit, or*
- *Deliberate physical interference with the casing or any external or internal components of the AFMA VMS unit.*

## **Notes**

### ***Must Make boat available***

Where the boat is not made available in accordance condition 34(a) or 35(a), AFMA may suspend this concession pursuant to section 38(1)(c) of the Act.

### ***Must maintain VMS Unit***

Regardless of AFMA's decision to fit an AFMA VMS unit, the holder must continue to maintain a VMS unit in accordance with regulation 37 of the Regulations.

### ***Remains the property of AFMA***

At all times the AFMA VMS unit remains the sole property of AFMA. The holder is liable for any costs incurred as a result of loss or damage to the unit.

## **HANDLING AND TREATMENT OF BYCATCH**

37. The concession holder (or a person acting on the holder's behalf) must not mistreat bycatch.

### **Definitions:**

***Mistreat*** means *taking, or failing to take, any reasonable action or actions, which results, or is likely to result, in the;*

- i. death of, or*
- ii. injury to, or*
- iii. causing of physiological stress to any bycatch.*

***Bycatch*** means *any species that physically interact with fishing vessels and/or fishing gear (including auxiliary equipment) and which are not usually kept by commercial fishers. **Bycatch** species may include fish, crustaceans, sharks, molluscs, marine mammals, reptiles and birds. **Bycatch** includes listed protected species under the Environment Protection and Biodiversity Conservation Act 1999.*

**Notes:** For the purposes of this condition 'mistreat' does not include the taking, or failing to take, action where it is reasonably necessary to take, or not take, the action;

- to ensure the safety of the boat and or its crew, or
- to comply with the requirements of any AFMA approved bycatch management plan(s) (these may include Seabird Management Plans, Vessel Management Plans etc.).

## **GAB Trawl Boat SFR - Mandatory use of e-log**

### Requirement to use electronic logbooks (e-log)

38. Where a concession holder has fished for fifty (50) days or more in the current or previous season; they must complete and submit the information contained in in Southern and Western Finfish Trawl Daily Fishing Log (SWT01A or SWT01B) using an electronic logbook (e-log) transmission that complies with clauses 19 and 20 of the Logbooks for Fisheries Determination 2017.