

TASMANIA

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**LIVING MARINE RESOURCES MANAGEMENT  
AMENDMENT BILL 2007**

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**LIVING MARINE RESOURCES MANAGEMENT  
AMENDMENT BILL 2007**

*(Brought in by the Minister for Primary Industries and Water,  
the Honourable David Edward Llewellyn)*

**A BILL FOR**

**An Act to amend the *Living Marine Resources Management Act 1995***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Living Marine Resources Management Amendment Act 2007*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Living Marine Resources Management Act 1995*\* is referred to as the Principal Act.

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\*No. 25 of 1995

**4. Section 97A inserted**

After section 97 of the Principal Act, the following section is inserted in Division 6:

**97A. Confirmation of total allowable catches for giant crab and rock lobster**

Notwithstanding any other provision of this Division or anything done or caused to be done under such a provision, Schedule 4 has effect with regard to the total allowable catches for the giant crab and rock lobster fisheries.

**5. Section 98 amended (Licence allocations)**

Section 98 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) Notwithstanding any other provision of this Act, the Minister may issue a special abalone licence on such licensing management conditions as he or she considers appropriate and may, by notice, vary or revoke any such condition.
- (4) A licensing management condition may be inconsistent with any provision of Part 4, or of any management plan or regulations, that provides for the variation, renewal, transfer or termination (however described) of –

- (a) fishing licences; or

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- (b) any rights, quota entitlements or other benefits (however described) conferred by fishing licences; or
- (c) any duties imposed by fishing licences; or
- (d) any catch restrictions, prohibitions or other detriments (however described) imposed by fishing licences –

and, in that event, the licensing management condition prevails to the extent of the inconsistency.

- (5) A decision by the Minister to issue a special abalone licence subject to licensing management conditions or to vary or revoke such a condition is –
  - (a) not capable of being made a prescribed decision under Division 3 of Part 10; and
  - (b) not reviewable or appealable under the *Judicial Review Act 2000* or any other law of the State; and
  - (c) not a matter in respect of which a declaratory judgment may be given; and

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- (d) not a matter in respect of which any other action or proceeding may be brought.
- (6) However, for special abalone licences issued before the changeover day, paragraphs (b), (c) and (d) of subsection (5) do not apply if the relevant proceedings were commenced before that day.
- (7) In this section –

**“changeover day”** means the day of commencement of the *Living Marine Resources Management Amendment Act 2007*;

**“licensing management condition”** means a condition of a special abalone licence that provides for or regulates in any way the variation, renewal, transfer or termination (however described) of –

- (a) the licence; or
- (b) any rights, quota entitlements or other benefits (however described) conferred by the licence; or
- (c) any duties imposed by the licence; or

- (d) any catch restrictions, prohibitions or other detriments (however described) imposed by the licence;

**“special abalone licence”** means a fishing licence issued under subsection (1), whether before, on or after the changeover day, that authorises a person to have a share of the total allowable catch for the abalone fishery.

**6. Schedule 4 inserted**

After Schedule 3 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 4 – CONFIRMATION OF TOTAL  
ALLOWABLE CATCHES FOR GIANT CRAB AND  
ROCK LOBSTER**

Section 97A

**1. Interpretation**

In this Schedule –

**“TAC”** means total allowable catch;

**“year”** means the period of 12 months commencing on 1 March in any year and ending at midnight on the following 28 February or, in

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the case of a leap year, 29  
February.

**2. Confirmation of total allowable catches for commercial giant crab fishery**

- (1) The TAC for the commercial giant crab fishery for the period 13 November 1999 to 29 February 2000, inclusive of both of those days, is taken to have been and always been 104 tonnes.
- (2) The TAC for the commercial giant crab fishery for each of the years specified in column 1 of the following table is taken to have been and always been the TAC specified for that year in column 2 of the table:

Year	TAC
1. Year commencing 1 March 2000	100 tonnes
2. Year commencing 1 March 2001	103.5 tonnes
3. Year commencing 1 March 2002	103.5 tonnes
4. Year commencing 1 March 2003	103.5 tonnes
5. Year commencing 1 March 2004	62.1 tonnes
6. Year commencing 1 March 2005	62.1 tonnes
7. Year commencing 1 March 2006	62.1 tonnes

- (3) The TAC for the commercial giant crab fishery for the year commencing



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1 March 2007 is taken to be and to have always been 62.1 tonnes.

**3. Confirmation of total allowable catch for rock lobster fishery**

- (1) The TAC for the commercial rock lobster fishery for each of the years specified in column 1 of the following table is taken to have been and always been the TAC specified for that year in column 2 of the table:

<b>Year</b>	<b>TAC</b>
1. Year commencing 1 March 1999	1 502.5 tonnes
2. Year commencing 1 March 2000	1 502.5 tonnes
3. Year commencing 1 March 2001	1 502.5 tonnes
4. Year commencing 1 March 2002	1 523.5 tonnes
5. Year commencing 1 March 2003	1 523.5 tonnes
6. Year commencing 1 March 2004	1 523.5 tonnes
7. Year commencing 1 March 2005	1 523.5 tonnes
8. Year commencing 1 March 2006	1 523.5 tonnes

- (2) The TAC for the commercial rock lobster fishery and the recreational rock lobster fishery for the year commencing 1 March 2007 is taken to be and to have always been 1 693.5 tonnes.