

TASMANIA

**FISHERIES AMENDMENT (VESSEL
MONITORING SYSTEMS) RULES 2023**

STATUTORY RULES 2023, No. 98

CONTENTS

1. Short title
2. Commencement
3. Principal Rules
4. Rule 3 amended (Interpretation)
5. Part 3 substituted
 - PART 3 – Vessel Monitoring
 24. Interpretation
 25. Approved VMS unit
 26. Requirements in relation to VMS notice
 27. Exemption from requirements in relation to VMS notice
 28. Responsibilities in respect of approved VMS unit
 - 28A. Temporary non-operation of approved VMS unit
6. Schedule 4 amended (Infringement Notices)

FISHERIES AMENDMENT (VESSEL MONITORING SYSTEMS) RULES 2023

I make the following rules under the *Living Marine Resources Management Act 1995*.

Dated 20 December 2023.

JO PALMER
Minister for Primary Industries and Water

1. Short title

These rules may be cited as the *Fisheries Amendment (Vessel Monitoring Systems) Rules 2023*.

2. Commencement

These rules take effect on the day on which their making is notified in the *Gazette*.

3. Principal Rules

In these rules, the *Fisheries Rules 2019** are referred to as the Principal Rules.

*S.R. 2019, No. 67

r. 4

4. Rule 3 amended (Interpretation)

Rule 3 of the Principal Rules is amended as follows:

- (a) by omitting the definition of *approved automatic location communicator*;
- (b) by omitting “for fishing” from the definition of *closed season* and substituting “in accordance with a determination made under rule 10(1)”;
- (c) by omitting the definition of *operating*;
- (d) by omitting the definition of *vessel monitoring system* and substituting the following definition:

vessel monitoring system – see rule 24;

5. Part 3 substituted

Part 3 of the Principal Rules is rescinded and the following Part is substituted:

PART 3 – VESSEL MONITORING

24. Interpretation

- (1) In this Part –

approved VMS unit means an electronic device, that comprises part of a vessel monitoring

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 5

system, of a make, model or type –

- (a) determined in accordance with rule 25(1)(a); or
- (b) deemed to be an approved VMS unit under subrule (2)(b);

operating, in relation to a vessel monitoring system, means the system is –

- (a) transmitting electronic data as required by a VMS notice; and
- (b) receiving and accurately responding to electronic data as required by a VMS notice; and
- (c) able to be programmed on demand through a communication system that receives and transmits data;

vessel monitoring system means a system that –

- (a) includes an approved VMS unit; and
- (b) monitors, records and transmits the location,

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 5

speed and heading of a vessel; and

- (c) may monitor, record and transmit other data in relation to fishing activities conducted on or from a vessel;

VMS notice means a notice published in accordance with rule 25;

- (2) For the purposes of the definition of *approved VMS unit* –

- (a) if the instructions of the manufacturer in relation to installation of the unit are inconsistent with the instructions of the Secretary, the instructions of the Secretary prevail to the extent of the inconsistency; and
- (b) a device for monitoring, recording and transmitting the location, speed and heading of a vessel, that was approved by the Secretary for use on a vessel immediately before the commencement of the *Fisheries Amendment (Vessel Monitoring Systems) Rules 2023*, is deemed to be an approved VMS unit.

25. Approved VMS unit

- (1) The Secretary, by published notice, may determine –
 - (a) one or more makes, models or types of device to be used –
 - (i) in relation to a fishery; or
 - (ii) in relation to a type of licence under which a vessel is being operated; or
 - (iii) in relation to a type of activity being undertaken under the authority of a licence; and
 - (b) that one or more approved VMS units are required to be used on a vessel being operated in accordance with a licence in a fishery.
- (2) A notice published under subrule (1) is to specify the following matters:
 - (a) the manner in which each approved VMS unit make, model or type is to be used in a fishery, or in relation to a licence;
 - (b) any other matters relating to the use or maintenance of approved VMS units in a fishery, or in

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 5

relation to a licence, that the Secretary considers necessary.

- (3) The Secretary may determine that the supervisor of a fishing licence (vessel), despite not otherwise being required by a VMS notice to use one or more approved VMS units on the vessel to which the fishing licence (vessel) relates, must use one or more approved VMS units on the vessel as if the vessel were subject to a VMS notice.
- (4) If a determination is made under subrule (3) –
 - (a) the Secretary must notify, in writing, the supervisor of a fishing licence (vessel) to whom the determination applies that the supervisor is required to use one or more approved VMS units on the vessel to which the fishing licence (vessel) relates; and
 - (b) rule 26 applies to the vessel to which the fishing licence (vessel) relates as if the vessel were subject to a VMS notice.

26. Requirements in relation to VMS notice

- (1) A supervisor of a fishing licence (vessel) must not take fish from a vessel that is subject to a VMS notice unless –

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 5

- (a) the vessel is fitted with each approved VMS unit required by the VMS notice and all such approved VMS units are operating; or
- (b) the licence under which the fish are to be taken is endorsed in accordance with rule 27 in relation to the fishery in which the fish are taken or are intended to be taken; or
- (c) the supervisor of the fishing licence (vessel) under which the fish are to be taken is authorised under rule 28(3) to continue to fish.

Penalty: Grade 3 penalty.

- (2) The supervisor of a fishing licence (vessel) must ensure that a vessel operated under that licence in a fishery is operated in accordance with a VMS notice in respect of that licence or fishery, unless –
 - (a) the licence is endorsed in accordance with rule 27 in relation to that fishery; or
 - (b) the supervisor of the licence is authorised under rule 28(3) to continue to fish.

Penalty: Grade 3 penalty.

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 5

- (3) A supervisor of a fishing licence (vessel), or a fishing licence holder, must not, in respect of a vessel subject to a VMS notice –
- (a) cause or allow any alteration to the programming of an approved VMS unit on the vessel; or
 - (b) without the written approval of the Secretary –
 - (i) cause or allow any interference with an approved VMS unit on the vessel; or
 - (ii) cause or allow any interference with the installation of an approved VMS unit on the vessel; or
 - (iii) cause or allow an approved VMS unit to be removed from the vessel.

Penalty: Grade 3 penalty.

- (4) Subrule (3) does not apply to a person who alters, interferes with or removes an approved VMS unit in accordance with a direction of a fisheries officer acting in that capacity.

27. Exemption from requirements in relation to VMS notice

- (1) Despite rule 26, on application from a fishing licence holder in respect of a licence, the Secretary may endorse the licence with an exemption from the requirement to comply with a VMS notice in one or more fisheries.
- (2) An endorsement made under subrule (1) may be for the period of the licence or a shorter period.

28. Responsibilities in respect of approved VMS unit

- (1) The supervisor of a fishing licence (vessel) who becomes aware that an approved VMS unit, fitted to the vessel operated under the licence, is not operational –
 - (a) must ensure that a fisheries officer is immediately notified that the approved VMS unit is not operating; and
 - (b) must immediately cease to fish from the vessel operated under the licence; and
 - (c) upon ceasing to fish, must not resume fishing from the vessel operated under the licence until –

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 5

- (i) all approved VMS units fitted to the vessel are operational; or
- (ii) the supervisor of the fishing licence (vessel) is authorised under subrule (3) to continue to fish; or
- (iii) the licence is endorsed with an exemption under rule 27.

Penalty: Grade 3 penalty.

- (2) The supervisor of a fishing licence (vessel) who becomes aware that an approved VMS unit, fitted to the vessel operated under the licence, is not operational may –
 - (a) seek authorisation from a fisheries officer to continue fishing from the vessel operated under the licence; and
 - (b) if so authorised, continue to fish in accordance with that authorisation.
- (3) If the supervisor of a fishing licence (vessel) seeks authorisation to continue fishing under subrule (2), a fisheries officer may authorise such fishing, subject to any terms or conditions that the officer thinks fit.

- (4) If authorisation is given under subrule (3), the supervisor of the fishing licence (vessel) must comply with any terms and conditions specified in the authorisation.

Penalty: Grade 3 penalty.

28A. Temporary non-operation of approved VMS unit

- (1) The Secretary may give written approval for the supervisor of a fishing licence (vessel) not to operate an approved VMS unit, fitted to the vessel operated under the licence, for a specified period of time in one of the following circumstances:
- (a) during a closed season for a fishery to which the licence relates;
 - (b) if the vessel is undergoing maintenance that prevents its use;
 - (c) if the vessel remains at an approved location for more than 14 consecutive days and is not being used for any fishing;
 - (d) in any other circumstance that the Secretary considers appropriate.
- (2) An approval given under subrule (1) may be subject to any terms or conditions that the Secretary thinks fit, and, if so subject,

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

r. 6

the terms and conditions are to be specified in the approval.

- (3) An approval is not to be given under subrule (1)(a) if an approved VMS unit is fitted to a vessel for the purposes of operating the vessel under a licence in more than one fishery, unless all fisheries for which the approved VMS unit is required to be used are subject to a closed season.
- (4) If approval is given under subrule (1), the supervisor of the fishing licence (vessel) must comply with any terms and conditions specified in the approval.

Penalty: Grade 3 penalty.

6. Schedule 4 amended (Infringement Notices)

Schedule 4 to the Principal Rules is amended by omitting items 23, 24, 25, 26, 27 and 28 and substituting:

| | | |
|-----|-------------|---|
| 23. | Rule 26(1) | 5 |
| 24. | Rule 26(2) | 5 |
| 25. | Rule 26(3) | 5 |
| 26. | Rule 28(1) | 5 |
| 27. | Rule 28(4) | 5 |
| 28. | Rule 28A(4) | 5 |

Fisheries Amendment (Vessel Monitoring Systems) Rules 2023
Statutory Rules 2023, No. 98

Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 8 January 2024.

These rules are administered in the Department of Natural Resources and Environment Tasmania.

EXPLANATORY NOTE

(This note is not part of the rules)

These rules amend the *Fisheries Rules 2019* by updating certain provisions relating to the use of vessel monitoring systems.