

# ***Living Marine Resources Management Act 1995***

## Section 11

### **INSTRUMENT OF EXEMPTION – ELEPHANT ROCK FISHERIES (RESEARCH AREA) ORDER 2009**

I, JO PALMER, being the Minister for Primary Industries and Water and as the Minister administering the *Living Marine Resources Management Act 1995* (“the Act”), acting pursuant to section 11 of the Act, hereby exempt the class of persons described in Schedule 1 of this instrument from compliance with restriction 4(b) in the *Elephant Rock Fisheries (Research Order) 2009* (the Order) made under Section 143 of the Act on 14 October 2009 and having regard to the relevant considerations provided in s 11(9) of the Act and referred to in Schedule 2, grant this exemption for 3 years from 00:01 2 December 2023 and subject to the conditions provided in Schedule 3.

#### **SCHEDULE 1**

##### **Class of Persons**

The holders of a fishing licence (recreational rock lobster pot) and Aboriginal people engaging in an Aboriginal activity fishing for rock lobster using a rock lobster pot.

#### **SCHEDULE 2**

##### **Relevant Considerations**

1. The nature of the exemption is to allow the class of persons described in schedule 1 to fish for rock lobster in the area using rock lobster pots only, to provide a non-commercial rock lobster fishing experience for East Coast fishers, and allow research into non-commercial fishing values in the area described in the Order.
2. The exemption is consistent with the relevant purposes and objectives of the Act, including the objectives of resource management. Particular regard is given to:
  - a. the community's needs in respect of living marine resources by allowing access to fish for rock lobster; and
  - b. taking account of the community's interests in living marine resources by providing unique fishing opportunity for larger fish and more abundant stock.
3. The benefit to the non-commercial fishing sector and local communities is related to:
  - a. Having non-commercial only fishing access to this area;
  - b. Having, at least initially, a fishing experience of larger rock lobsters at higher density than the surrounding east coast waters, as the rock lobster population has increased while the Elephant Rock research area has been closed to fishing; and
  - c. Enabling research into non-commercial fishing values that will inform future management of the non-commercial fishery.
4. It is unlikely that the exemption involves any risk to Tasmania's fisheries or allied industries. Advice from the Institute for Marine and Antarctic Studies (IMAS) is that these are small areas in the context of the wider stock and will have a negligible effect on its sustainability.
5. The objects of the exemption, particularly the exclusive non-commercial access to large lobsters and higher catch rates than in surrounding waters, are not reasonably capable of being attained in a timely manner by other means.

6. The exemption will not impact on the operation of any management plan for the period of the exemption.
7. The exemption applies to all holders of a fishing licence (recreational rock lobster pot) and Aboriginal people engaging in an Aboriginal activity fishing for rock lobster and is fair having regard to the existing obligations of all those people. The persons who will have the benefit of the exemption are holders of licences and Aboriginal people fishing for rock lobster. There are no relevant character or antecedent requirements to be addressed amongst the members of the class to whom the exemption applies.
8. The Crown has no relevant experience with an exemption of this kind.
9. The exemption is manageable for the purpose of compliance monitoring.

### **SCHEDULE 3**

#### **Conditions**

1. A daily bag limit of one rock lobster for the period 2 December 2023 to 30 April 2024 and thereafter the daily bag limit and possession limits – non-commercial fisher specified in the *Fisheries (Rock Lobster) Rules 2022*.

Dated at HOBART this 2 day of November 2023.



JO PALMER MLC

**MINISTER FOR PRIMARY INDUSTRIES AND WATER**

Notes:

1. Any expression used in this instrument bearing a particular meaning under the Act or the *Fisheries (Rock Lobster) Rules 2022* has the same meaning in this instrument.
2. All other non-commercial rock lobster rules for this area are consistent with the East Coast Stock Rebuilding Zone unless otherwise stated in this exemption.