

Doc No. 1469

This compilation incorporates amendments up to and including the *Octopus Interim Managed Fishery Management Plan Amendment 2023*, published in the Government Gazette No. 142 on 27 October 2023 (pp. 3524 - 3527).

Fish Resources Management Act 1994

OCTOPUS INTERIM MANAGED FISHERY MANAGEMENT PLAN 2015

FD 4639/16-02 [1301]

Made by the Minister under section 54.

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Fish Resources Management Act 1994

OCTOPUS INTERIM MANAGED FISHERY MANAGEMENT PLAN 2015

FD 568/14 [1186]

Made by the Minister under section 54.

PART 1 - PRELIMINARY

1. Citation

This plan is the *Octopus Interim Managed Fishery Management Plan 2015*.

2. Commencement

This plan comes into operation on the date it is published in the *Gazette*.

3. Exception

This plan does not apply to the persons described in clause 8(1)(a) of this plan prior to 24 November 2015.

4. Interpretation

In this plan, unless the contrary intention appears -

active trap means a trap designed for the selective capture of octopus which -

- (a) has one opening; and
- (b) has a closing door mechanism at the front of the trap; and
- (c) measures a maximum length of 670 millimetres; and
- (d) measures at the front -
 - (i) a maximum height of 295 millimetres;
 - (ii) a maximum top width of 250 millimetres; and
 - (iii) a maximum base width of 280 millimetres,
- and
- (e) measures at the back -
 - (i) a maximum height of 270 millimetres;
 - (ii) a maximum top width of 220 millimetres; and
 - (iii) a maximum base width of 250 millimetres;

authorised boat means -

- (a) a licensed fishing boat, the name and licensed fishing boat number of which is specified in a permit; or
- (b) a boat specified in a written authority under any regulation providing that a substitute boat may be approved for short term use in place of a boat described in paragraph (a);
- (c) a boat that is authorised to be used pursuant to clause 20A;

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cradle means a frame that holds multiple traps;

current entitlement means the usual entitlement conferred by a permit as -

- (a) increased by any entitlement transferred to the permit under section 141 of the Act; or
- (b) decreased by any entitlement transferred from the permit under section 141 of the Act;

Fishery means the Octopus Interim Managed Fishery as described in clause 6 of this plan;

logbook means the Daily Catch and Effort Log Book Returns issued by the Department in respect of a permit, for recording information regarding the taking of octopus in the Fishery;

log sheet means a Daily Catch and Effort Log Sheet in a logbook;

octopus means fish of that common name described by the scientific classification opposite that name in Division 4 of Schedule 7 to the regulations;

passive trap means a trap with one or more unobstructed openings that cannot be accidentally or intentionally closed;

permit means an interim managed fishery permit authorising a person to fish for octopus in the Fishery;

plan means the *Octopus Interim Managed Fishery Management Plan 2015*;

pull means, in relation to traps, to bring traps from the seabed to the surface;

regulations means the *Fish Resources Management Regulations 1995*;

trap means an active trap or a passive trap, as the case may be;

usual entitlement means the entitlement conferred by a permit without regard to any entitlement temporarily transferred to or from the permit under section 141 of the Act.

5. Procedure before this plan may be amended or revoked

For the purposes of section 65 of the Act, the permit holders of the Fishery are the persons to be consulted before this plan is amended or revoked.

PART 2 - THE FISHERY

6. Identification and declaration of the Fishery

(1) The Fishery to which this plan relates is the fishing for octopus by any means in the waters described in Schedule 1 of this plan.

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(2) The Fishery is an interim managed fishery, and may be referred to as the Octopus Interim Managed Fishery.

(3) The Fishery is divided into zones as described in Schedule 2 of this plan.

PART 3 - PERMITS AND FEES

7. Permits

A permit may authorise fishing for octopus in a specified zone or zones of the Fishery.

8. Criteria for the grant of a permit

(1) The criteria to be satisfied before the CEO may grant a person a permit to fish in a zone of the Fishery are that -

- (a) on the date that this plan was published in the *Gazette*, the person was the holder of -
 - (i) Instrument of Exemption number 2658; or
 - (ii) Instrument of Exemption number 2659; or
 - (iii) Instrument of Exemption number 2660; or
 - (iv) Instrument of Exemption number 2661; or
 - (v) Instrument of Exemption number 2662; or
 - (vi) Fishing Boat Licence 2168; or
 - (vii) Fishing Boat Licence 2809,and
- (b) the person applies for the grant of a permit on or before 1 March 2016.

(2) Notwithstanding subclause (1), the CEO may grant a person a permit to fish in a zone of the Fishery if the CEO is satisfied that -

- (a) immediately upon being granted a permit an application will be made under section 140 of the Act to transfer usual units of entitlement to the permit, if it is to be granted, from another permit; and
- (b) the application referred to in paragraph (a) will be in respect of a total of not less than one unit; and
- (c) in the CEO's opinion, there is no arguable ground in respect of the application referred to in paragraph (a) to refuse to transfer the units of usual entitlement to the permit; and
- (d) the person is a fit and proper person to hold a permit.

9. Duration of a permit

A permit granted or renewed under this plan expires on 30 September next following the date of grant or renewal.

10. Matters to be specified on a permit

- (1) A permit granted or renewed in respect of the Fishery must specify -
 - (a) the name and business address of the holder of the permit;

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- (b) the name and licensed fishing boat number of any licensed fishing boat which may be used for or in connection with fishing in a zone of the Fishery under the authority of that permit;
 - (c) the permit number;
 - (d) the date on which the permit was granted or renewed;
 - (e) the date on which the permit expires;
 - (f) the name of the Fishery to which the permit relates;
 - (g) the zone or zones in which fishing for octopus is authorised;
 - (h) the number and class of units of usual entitlement conferred by the permit;
 - (i) the number and class of units of current entitlement conferred by the permit; and
 - (j) any conditions imposed on the permit by the CEO.
- (2) A person must not fish in a zone of the Fishery under the authority of a permit unless the specification in subclause (1)(b) has been made in respect of that permit.

11. Payment of fees by instalments

- (1) For the purposes of regulation 137(2) the total fee may be paid by instalments as specified in Schedule 4 of this plan if -
- (a) an election to pay by instalments is made by the holder of a permit in accordance with subclause (2); and
 - (b) there is no other fee, charge or levy in respect of the permit which has not been paid at the time the election is received at an office of the Department.
- (2) An election for the purposes of subclause (1) must be -
- (a) made in writing;
 - (b) received at an office of the Department on or before 30 September next following the day on which the permit expires, and
 - (c) accompanied by the first instalment plus the surcharge.
- (3) For the purposes of regulation 137(3) the surcharge shall be 3.13% of the total fee.

PART 4 - CAPACITY OF THE FISHERY AND SCHEME OF ENTITLEMENT

12. Capacity of the zones of the Fishery

- (1) The capacity of Zone 1 of the Fishery is 20,550 active traps.
- (2) The capacity of Zone 2 of the Fishery is 34,908 active traps.
- (3) The capacity of Zone 3 of the Fishery is 12,213 active traps.

13. Scheme of entitlement

- (1) The entitlement to fish for octopus in the Fishery under the authority of a permit shall be expressed as a number of units.
- (2) Units shall be described as Class 1 units, Class 2 units, or Class 3 units.

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- (3) A Class 1 unit shall confer an entitlement to take octopus from Zone 1.
- (4) A Class 2 unit shall confer an entitlement to take octopus from Zone 2.
- (5) A Class 3 unit shall confer an entitlement to take octopus from Zone 3.

14. Conferral of entitlement

Where a permit is granted in accordance with clause 8(1) of this plan, the permit shall, at the time it is granted, confer usual units of entitlement as specified in Schedule 5 of this plan.

15. Unit value

- (1) The sum of the entitlements to fish for octopus that may be conferred by all the permits authorising fishing in a zone of the Fishery is equal to the capacity specified for that zone of the Fishery in clause 12 of this plan.
- (2) The extent of the entitlement to fish in a zone of the Fishery arising from time to time from a unit (the unit value) shall be determined in accordance with Schedule 6 of this plan.

16. Prohibition on operating in excess of entitlement

At any time that a permit is in force, a person must not fish in a zone of the Fishery under the authority of that permit by means of more traps than equates to the value of the current entitlement of the permit.

17. Authority of permit of no effect where usual or current entitlement is less than 600 units of entitlement

- (1) The authority conferred by a permit is of no effect at any time when either the usual or the current entitlement of the permit is less than 600 units of entitlement.
- (2) Subclause (1) does not apply to -
 - (a) a permit granted in accordance with clause 8(1)(a)(vi) of this plan; or
 - (b) a permit granted in accordance with clause 8(1)(a)(vii) of this plan.

PART 5 - TRANSFER OF ENTITLEMENT**18. Temporary transfer of entitlement**

The CEO may transfer the whole or part of an entitlement under a permit to another permit for a period ending at the time that the permit expires, provided that -

- (a) the transfer is of a whole number of units; and
- (b) the total fee has been paid in respect of the permit from which the units are to be temporarily transferred.

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19. Grounds for refusing to transfer an entitlement or part of an entitlement

The CEO may refuse an application for the transfer of an entitlement or part of an entitlement under a permit to another permit, on the grounds that -

- (a) the proposed transfer is not in respect of a whole unit or whole number of units; or
- (b) the usual entitlement of the transferor's permit would, after the transfer, be less than one unit.

PART 6 - GENERAL REGULATION OF FISHING OPERATION

20. Use of boats

A person must not use a boat in the Fishery unless -

- (a) the person is the holder of a permit, and the boat is the authorised boat specified on the permit; or
- (b) the person is acting for or on behalf of the holder of the permit as the master of an authorised boat, and the boat is the authorised boat specified on the permit.

20A. Use of boat not specified on a permit

(1) Notwithstanding any other clause in this Plan, a regional manager or compliance officer may, by notice in writing, authorise the holder of a permit to use, in place of the boat specified on the permit, not more than 3 boats, being boats specified on other permits, for a period not exceeding 10 days.

(2) An application for an authority under subclause (1) must be made by the holder of a permit on a form approved for that purpose by the CEO.

(3) A regional manager or compliance officer must not provide an authority under subclause (1) unless satisfied that -

- (a) the boat specified on the permit cannot be operated;
- (b) the holder of the permit is unable to apply to vary the permit or seek an authority for short-term use of a substitute boat, as provided for in the regulations, for reasons beyond the person's control;
- (c) each boat to be used in the place of the boat referred to in paragraph (3)(a) is specified on another permit; and
- (d) the master of each boat to be used in the place of the boat specified in paragraph (3)(a) has provided written consent to the provision of an authority under this clause and written acknowledgement of subclause (4).

(4) It is a condition of a permit that, where the boat specified on a permit is also the subject of an authority provided under this clause, the master of that boat must immediately upon taking octopus clearly segregate and label the octopus with the details of the relevant permit under the authority of which the octopus were taken.

(5) It is a condition of a permit that, where the boat specified on a permit is also the subject of an authority provided under this clause, a person must not use that boat to fish

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for octopus unless the person who gave written consent for the purposes of subclause (3)(d) is the master of that boat.

(6) An authority provided under this clause may be given subject to such additional conditions as the regional manager or compliance officer thinks fit, and may be amended from time to time, or revoked by further notice in writing.

(7) An authority provided under this clause may be surrendered by the delivery to a regional manager or compliance officer of notices in writing surrendering the consent made by the masters of each boat specified in the authority.

21. Use of traps

(1) A person fishing in the Fishery under the authority of a permit must not fish by any means other than by active traps or passive traps.

(2) The master of an authorised boat fishing in the Fishery must ensure that each trap, or at least one end of a line of traps, has a line attached that is buoyed on the surface of the water by a surface float that -

- (a) has a diameter of not less than 200 millimetres;
- (b) is branded or stamped in legible characters not less than 60 millimetres in height and not less than 10 millimetres in width with the licensed fishing boat number of the authorised boat that is being used to fish in a zone of the Fishery, preceded by the letter 'X'; and
- (c) is not branded or stamped with the licensed fishing boat number of any other boat.

(3) A person fishing in the Fishery by means of passive traps must not fish with more than 12,000 passive traps at any time.

(4) A person fishing in the Fishery by means of passive traps must not use bait in a passive trap.

22. Use of traps from 1 April to 30 November each year

(1) In this clause -

first surface float means the surface float that is connected to the trap line;

float rig means the length of rope on the surface of the water that is connected to the first and last surface floats, including any rope extending beyond the last surface float;

last surface float means the surface float that is at the end of a float rig and is only connected to another surface float;

longline means a length of rope with multiple traps or cradles attached, and which is connected to a trap line;

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trap line means the length of submerged rope between the first surface float and the point at which the line is attached to a trap or cradle, or to a longline.

- (2) This clause applies to the use of traps, trap lines and float rigs to fish for octopus during the period commencing on 1 April in any year and ending -
 - (a) on 31 October in the same year, in Zones 1 and 2 of the Fishery; and
 - (b) on 30 November in the same year, in Zone 3 of the Fishery.
- (3) The master of an authorised boat must ensure that -
 - (a) the maximum length of the trap line does not exceed twice the depth of the water in which the master is fishing;
 - (b) the top third of the trap line is held as close to vertical as possible in the water column, by the use of weighted rope, or by a weight attached to the trap line;
 - (c) no rope other than the float rig is on the surface of the water; and
 - (d) a float rig does not exceed 9.1 metres in length, and does not have attached -
 - (i) more than 3 surface floats, when used in waters greater than 54.9 metres in depth; or
 - (ii) more than 2 surface floats, when used in waters less than or equal to 54.9 metres in depth.
- (4) The master of an authorised boat must not fish during the period specified in subclause (2) other than by -
 - (a) a longline to which are attached a minimum of 20 traps or cradles; or
 - (b) a single trap line to which are attached -
 - (i) a maximum of 2 traps; or
 - (ii) a maximum of 2 cradles.
- (5) The master of an authorised boat must ensure all traps are pulled from the water -
 - (a) at least once every 30 days, in the case of passive traps; and
 - (b) at least once every 21 days, in the case of active traps.

23. CEO may permit fishing by use of different traps

- (1) The CEO may, by notice published in the *Gazette*, permit persons fishing in the Fishery to fish by means of traps that would otherwise be prohibited under this plan, if, in the opinion of the CEO, the use of such traps is in the better interests of the Fishery.
- (2) A notice made under subclause (1) -
 - (a) must specify the traps that are permitted to be used in the fishery;
 - (b) must specify the period of time for which the notice is in effect;
 - (c) may only be made after consultation with all permit holders who are entitled to fish in the Fishery; and
 - (d) must take into account any advice received from the Department's Executive Director of Research.

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23A. Requirement to report lost traps

- (1) The master of an authorised boat must report any lost or irretrievable traps in the log sheet for that trip.
- (2) The master of an authorised boat must ensure that a report in the log sheet specifies -
 - (a) the quantity and type of lost or irretrievable traps; and
 - (b) the last known location of the lost or irretrievable traps.
- (3) If any traps referred to in subclause (1) are subsequently found, the master of an authorised boat must report the finding of those traps in the log sheet for that subsequent trip.

24. Use of log sheets and logbooks

- (1) The master of an authorised boat fishing in the Fishery under the authority of a permit must complete a log sheet in the logbook issued in respect of that permit at the end of each fishing day.
- (2) The master of an authorised boat must -
 - (a) keep the logbook secure and in good condition at all times; and
 - (b) produce the logbook to a fisheries officer on demand.
- (3) The master of an authorised boat must return the logbook to the holder of the permit in respect of which the logbook has been issued when -
 - (a) the master ceases to be the master in respect of that authorised boat; or
 - (b) the logbook has been fully completed.
- (4) The permit holder must -
 - (a) retain the logbook issued in respect of the holder's permit for 7 years from the date of the last entry in that logbook; and
 - (b) produce the logbook to a fisheries officer on demand.

PART 7 - PROHIBITIONS AND OFFENCES

25. Persons prohibited from fishing in the Fishery

- (1) Subject to subclauses (2) and (3), a person must not fish in a zone of the Fishery other than -
 - (a) in accordance with this plan; and
 - (b) under the authority of a permit that authorises fishing in that zone.
- (2) This plan does not apply to a person fishing for octopus for a recreational purpose in accordance with the Act.
- (3) Except as provided for in clause 27, this plan does not apply to a person for whom fishing activity is otherwise authorised under a management plan in force under the Act.

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26. Prohibition on fishing in particular areas

A person must not fish for octopus at any time in any of the areas of the Fishery described in Schedule 3 of this plan.

27. Prohibition on selling or dealing with, or attempting to sell or deal in, or possessing, octopus

(1) In this clause -

deal in includes handling, storing, transporting, weighing and recording;

otherwise dealt with includes handled, stored, transported, weighed and recorded.

(2) A person must not sell, purchase, or deal with, or attempt to sell, purchase or deal in, or be in possession of, any octopus taken from the Fishery, landed, or otherwise dealt with in contravention of this plan.

(3) A person must not sell, purchase, or deal with, or attempt to sell, purchase, or deal in, or be in possession of, any octopus unless that octopus was taken and landed by a person fishing under the authority of a permit.

(4) This clause does not apply to persons fishing under the authority of an authorisation granted with respect to a management plan specified in Schedule 7.

28. Closure of areas within the Fishery

(1) The CEO may, by notice published in the *Gazette*, prohibit fishing in the Fishery, or any part of the Fishery, for the period specified in the notice if, in the opinion of the CEO, the prohibition is required in the better interests of the Fishery.

(2) A notice made under subclause (1) -

- (a) may only be made after consultation with all permit holders who are entitled to fish in the Fishery, or in that part of the Fishery that is the subject of the proposed prohibition;
- (b) must take into account any advice received from the Department's Executive Director of Research;
- (c) may be made to apply at all times or at any specified time; and
- (d) revokes any previous notice made under that subclause.

(3) A person must not fish for octopus in the Fishery, or a specified part of the Fishery, at any time when fishing in the Fishery, or that specified part of the Fishery, has been prohibited by a notice made under subclause (1).

29. Offences

A person who contravenes a provision of clause 10(2), 16, 20, 21, 22, 24, 25(1), 26, 27, or 28(3) commits an offence.

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SCHEDULES**SCHEDULE 1 - Description of the Fishery**

[clause 6]

All the waters within the Australian Fishing Zone, and coastal waters, situated on the west and south coasts of the State between 26° 30' south latitude and 129° 00' east longitude; but excluding the waters bounded by a line commencing at a point on the high water mark at the western extremity of the South Mole at the entrance to Fremantle Harbour; thence extending westerly to the southern most rock of the Straggler Rocks; thence south easterly to the high water mark on the northern most point of Mewstone; thence generally southerly along the high water mark on the eastern shore of Mewstone to its southern most point; thence southerly to the high water mark on the northern most point of Carnac Island; thence generally southerly along the high water mark on the eastern shore of that island to its southern most point; thence southerly to the high water mark at Entrance Point on Garden Island; thence generally southerly along the high water mark on the eastern shore of that island to South West Point; thence southerly to the high water mark at John Point on the mainland; thence generally east then north along the high water mark to the commencing point.

SCHEDULE 2 - Description of the zones of the Fishery

[clause 6]

Zone 1

All the waters of the Fishery situated on the west coast of the State between 26° 30' south latitude and 30° 00' south latitude.

Zone 2

All the waters of the Fishery situated on the west coast of the State between 30° 00' south latitude and 34° 24' south latitude; but excluding all waters on the south coast to the east of Cape Leeuwin commencing at 115° 8.091' east longitude.

Zone 3

All waters of the Fishery bounded by a line commencing at the intersection of 34° 22.52' south latitude and 115° 8.091' east longitude; thence extending due south along the meridian to the intersection of 34° 24' south latitude and 115° 8.091' east longitude; thence extending due west along the parallel to the outer limit of the Australian Fishing Zone; thence following the boundary of the Australian Fishing Zone generally east to its intersection with 129° east longitude; thence due north along the meridian to the intersection of 31° 41.2' south latitude and 129° 00' east longitude.

SCHEDULE 3 - Prohibited areas

[clause 25]

Area 1: Oyster Harbour

All the waters of Oyster Harbour and its connecting tributaries north of a line commencing at the intersection of 34°59.889' south latitude and 117°56.880' east longitude (on the western foreshore); thence in a easterly direction to the intersection of 34°59.889' south latitude and 117°57.060' east longitude (a point on the opposite foreshore).

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Area 2: Princess Royal Harbour

All the waters of Princess Royal Harbour west of a line commencing at the intersection of 35°02.050' south latitude and 117°55.206' east longitude (on the foreshore near King Point); thence in a southerly direction to the intersection of 35°02.490' south latitude and 117°55.206' east longitude (a point on the opposite foreshore).

SCHEDULE 4 - Payment of fees by instalments

[clause 11]

The fee payable in respect of the grant or renewal of a permit may be paid in instalments consisting of -

- (a) the first instalment being 25% of the total fee and due for payment on or before 30 September;
- (b) the second instalment being 25% of the total fee and due for payment on or before 31 December following the day on which the first instalment is paid;
- (c) the third instalment being 50% of the total fee and due for payment on or before 31 March following the day on which the first instalment is paid.

SCHEDULE 5 - Conferral of entitlement

[clause 14]

Zone	Exemption number / Fishing boat licence number	Units
Zone 1	EXEM 2660	17,765 Class 1 units
	EXEM 2661	2,485 Class 1 units
	FBL 2168	300 Class 1 units
		Total: 20,550 Class 1 units
Zone 2	EXEM 2660	5,796 Class 2 units
	EXEM 2661	2,046 Class 2 units
	EXEM 2659	26,766 Class 2 units
	FBL 2809	300 Class 2 units
		Total: 34,908 Class 2 units
Zone 3	EXEM 2662	6,839 Class 3 units
	EXEM 2658	5,374 Class 3 units
		Total: 12,213 Class 3 units

SCHEDULE 6 - Unit value

[clause 15]

(1) The extent of the entitlement to fish for octopus in a zone of the Fishery that arises from a unit, to be known as the unit value, shall be determined by the formula -

$$\frac{C}{N} = U$$

where -

- C is the capacity of the zone of the Fishery;
- N is the total number of units of entitlement for that zone of the Fishery conferred by all permits; and
- U is the unit value, rounded to 2 decimal places.

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(2) The number of active traps that can be used under a permit to fish for octopus in a zone of the Fishery shall be determined by the formula -

$$AT = T \times U$$

where -

- AT is the number of active traps that can be used under a permit in a zone;
- T is the total number of units of entitlement conferred on a permit; and
- U is the unit value, rounded to 2 decimal places.

(3) The number of passive traps that can be used under a permit to fish for octopus in a zone of the Fishery shall be determined by the formula -

$$PT = [T \times U] \times 5$$

where -

- PT is the number of passive traps that can be used under a permit in a zone;
- T is the total number of units of entitlement conferred on a permit; and
- U is the unit value, rounded to 2 decimal places.

**Schedule 7 - Management plans for which authorisation holders are excepted
from the prohibition on selling and dealing**

[Clause 27]

Marine Aquarium Fish Managed Fishery Management Plan 2018
South Coast Crustacean Managed Fishery Management Plan 2015
South-West Trawl Limited Entry Fishery Notice 1989
West Coast Estuarine Managed Fishery Management Plan 2014
West Coast Rock Lobster Managed Fishery Management Plan 2012

Dated 21 of October 2015

K BASTON, Minister for Fisheries.

Legislative history of this instrument:

Octopus Interim Managed Fishery Management Plan 2015, published in Government Gazette No. 163 on 27.10.15. (pp. 4419-4425)

Octopus Interim Managed Fishery Management Plan Amendment 2017, published in Government Gazette No. 177 on 12.09.17 (pp. 4737-4738)

Octopus Interim Managed Fishery Management Plan Amendment 2023, published in Government Gazette No. 142 on 27.10.23 (pp. 3524 – 3527)

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