

South Australia

Fisheries Management (Prawn Fisheries) Regulations 2006

under the *Fisheries Management Act 2007*

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Legislative history

1—Short title

These regulations may be cited as the *Fisheries Management (Prawn Fisheries) Regulations 2006*.

Note—

These regulations prescribing a scheme of management for a fishery under the repealed *Fisheries Act 1982* were continued in force by Sch 1 cl 5(1) of the *Fisheries Management Act 2007* as if they were regulations for the management of the fishery made under the *Fisheries Management Act 2007*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—
Act means the *Fisheries Management Act 2007*;

Corporations Act means the *Corporations Act 2001* of the Commonwealth;

current company extract means a document prepared by the Australian Securities and Investment Commission from its national database kept under the Corporations Act that contains current details of the following in relation to a company:

- (a) the company's name;
- (b) the address of the company's registered office;
- (c) the date of registration of the company;
- (d) the State or Territory in which the company is taken to be registered under the Corporations Act;
- (e) the company's Australian Company Number;
- (f) whether the company is a proprietary company or a public company;
- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

Gulf St. Vincent means the waters of Gulf St. Vincent, Investigator Strait and Backstairs Passage contained within and bounded by a line commencing at Mean High Water Springs closest to 35°13'26.90" South, 137°00'00.00" East, then beginning easterly following the line of Mean High Water Springs to the location closest to 35°39'37.06" South, 138°13'38.09" East (Porpoise Head), then south-westerly to the location on Mean High Water Springs closest to 35°48'06.93" South, 138°07'29.06" East (Cape St Albans, Kangaroo Island), then beginning south-westerly following the line of Mean High Water Springs to the location closest to 35°40'20.07" South, 137°0'00.00" East, then northerly to the point of commencement;

Mean High Water Springs means the line representing the average of all high water observations at the time of spring tide over a period of 19 years;

overall length, in relation to a boat, means the horizontal distance between—

- (a) a perpendicular dropped from the extremity of the bow of the boat or, if a fixture or structure attached to the bow projects beyond the bow, from the extremity of that fixture or structure; and
- (b) a perpendicular dropped from the extremity of the stern of the boat or, if a fixture or structure attached to the stern projects beyond the stern, from the extremity of that fixture or structure;

prawn means King Prawn (*Merlicertus latisulcatus*);

prawn fishery means—

- (a) the Gulf St. Vincent Prawn Fishery; or
- (b) the Spencer Gulf Prawn Fishery; or
- (c) the West Coast Prawn Fishery,

constituted by these regulations;

Spencer Gulf means the waters of Spencer Gulf north of the geodesic from the location on Mean High Water Springs closest to 34°9'07.15" South, 136°00'11.06" East (Cape Catastrophe, Eyre Peninsula) to the location on Mean High Water Springs closest to 35°17'59.60" South, 136°52'50.11" East (Cape Spencer, Yorke Peninsula);

surveyed length, in relation to a registered boat, means the length as shown on the certificate of survey issued under the *Harbors and Navigation Act 1993*;

trawl net has the same meaning as in the *Fisheries Management (General) Regulations 2007*;

West Coast waters means the waters adjacent to South Australia contained within the meridians of longitude 131° East and 137° East, but does not include the waters of Spencer Gulf north of the geodesic from the location on Mean High Water Springs closest to 34°59'07.15" South, 136°00'11.06" East (Cape Catastrophe, Eyre Peninsula) to the location on Mean High Water Springs closest to 35°17'59.60" South, 136°52'50.11" East (Cape Spencer, Yorke Peninsula).

- (2) In these regulations, unless the contrary intention appears, **company**, **director**, **proprietary company** and **public company** have the same respective meanings as in the Corporations Act.
- (3) In these regulations—
 - (a) all lines in spatial descriptions are geodesics based on the Geocentric Datum of Australia 1994 (**GDA94**) as defined in the Commonwealth of Australia Gazette GN35 of 6 September 1995, and all coordinates are expressed in terms of GDA94;
 - (b) common and scientific fish names are given according to AS:SSA-001 *Australian Fish Names Standard* published by Seafood Services Australia in July 2007, as amended from time to time;
 - (c) a reference to the **taking of aquatic resources** includes a reference to an act preparatory to or involved in the taking of the aquatic resources.

4—Constitution of fisheries

- (1) The following fisheries are constituted:
 - (a) the Gulf St. Vincent Prawn Fishery;
 - (b) the Spencer Gulf Prawn Fishery;
 - (c) the West Coast Prawn Fishery.
- (2) The Gulf St. Vincent Prawn Fishery consists of—
 - (a) the taking of prawns in Gulf St. Vincent; and
 - (b) the taking of aquatic resources specified in Schedule 1 Part 1 in Gulf St. Vincent where the aquatic resources are taken at the same time in the same net incidentally to the taking of prawns.
- (3) The Spencer Gulf Prawn Fishery consists of—
 - (a) the taking of prawns in Spencer Gulf; and

- (b) the taking of aquatic resources specified in Schedule 1 Part 1 in Spencer Gulf where the aquatic resources are taken at the same time in the same net incidentally to the taking of prawns.
- (4) The West Coast Waters Prawn Fishery consists of—
 - (a) the taking of prawns in the West Coast waters; and
 - (b) the taking of aquatic resources specified in Schedule 1 Part 2 in the West Coast waters where the aquatic resources are taken at the same time in the same net incidentally to the taking of prawns.

5—Maximum number of licences that may be in force

- (1) The maximum number of licences that may be in force in respect of the Gulf St. Vincent Prawn Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (2) The maximum number of licences that may be in force in respect of the Spencer Gulf Prawn Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (3) The maximum number of licences that may be in force in respect of the West Coast Prawn Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

6—Transfer of licence

- (1) Licences in respect of a prawn fishery are transferable.
- (2) An application for consent to the transfer of a licence must be accompanied by—
 - (a) the licence to be transferred; and
 - (b) a form of return as required by regulation 11 completed by the holder of the licence up to the date of application; and
 - (c) if the transferee is a company—a current company extract relating to the transferee issued not more than 1 month immediately preceding the date of application.
- (3) The Minister may only consent to the transfer of a licence if satisfied as to the following:
 - (a) that any fees or other amounts payable in relation to the licence under the Act or the repealed Act have been paid in full;
 - (b) that the licence to be transferred has not been suspended;
 - (c) that no proceedings alleging an offence against the Act or the repealed Act are pending or likely to be commenced in the State against the holder of the licence;
 - (d) that the transfer is to 1 person only;
 - (e) if the transferee is a natural person, that the transferee is at least 15 years of age and is a fit and proper person to hold a licence in respect of a prawn fishery;

- (f) if the transferee is a company, that each director of the company is a fit and proper person to be a director of a company that holds a licence in respect of a prawn fishery;
- (g) if a registered boat used under the licence is the subject of, or registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under a law of the Commonwealth or a corresponding law—
 - (i) that the entitlement is either to be transferred together with the licence to the transferee or to be surrendered on or before the transfer of the licence; or
 - (ii) that—
 - (A) the transfer of the licence separately from the entitlement is not likely to result in fishing activities that over-exploit or endanger the aquatic resources of the State; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

7—Registration

- (1) An application by the holder of a licence in respect of a prawn fishery—
 - (a) to register a boat or device for use under the licence; or
 - (b) to register a person as a master of a boat that may be used under the licence,must be accompanied by the documents specified in the application form.
- (2) The Minister may only grant an application to register a boat for use under a licence in respect of a prawn fishery if satisfied that—
 - (a) the overall length of the boat does not exceed 22 metres; and
 - (b) the continuous brake power rating of the main engine of the boat does not exceed 336 kw; and
 - (c) no other boat is registered for use under the licence.

8—Revocation of registration

- (1) The Minister may, on application by the holder of a licence in respect of a prawn fishery, revoke the registration of—
 - (a) a boat or device used under the licence; or
 - (b) a person as a master of a boat that may be used under the licence.
- (2) An application for revocation of registration must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicant and be completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the documents specified in the application form.

9—Individual fishing nights entitlement scheme—Gulf St. Vincent Prawn Fishery

(1) In this regulation—

amalgamated gear means trawl nets set up as a triple rig with an overall headline length not exceeding 43.89 metres;

closed season means—

- (a) the period commencing on 25 December in any year and ending on the last day of February in the following year; or
- (b) the period commencing on 1 August in any year and ending on 31 October in the same year;

fishery means the Gulf St. Vincent Prawn Fishery;

fishing night means a night occurring during a prescribed period;

fishing nights entitlement, in relation to a licence in respect of the fishery and a fishing season, means the maximum number of nights during which the holder of the licence may lawfully take aquatic resources under the licence during that fishing season, being the product of—

- (a) the unit entitlement under the licence; and
- (b) the unit value for the fishery and the fishing season,

subject to any variation applying during that fishing season;

fishing season means the period comprising prescribed period 1 in any year and the prescribed period 2 ending on 31 July in the following year;

night means the period between sunset on 1 day and sunrise on the next day;

prescribed period means—

- (a) prescribed period 1; or
- (b) prescribed period 2;

prescribed period 1 means—

- (a) the period commencing on 15 November 2014 and ending on 24 December 2014; or
- (b) a period commencing on 1 November in any subsequent year and ending on 24 December in the same year;

prescribed period 2 means a period commencing on 1 March in any year and ending on 31 July in the same year;

unit entitlement means the number of fishing night units for the time being allocated to a licence in respect of the fishery;

unit value means the value of a fishing night unit determined by the Minister for the fishery and a fishing season.

- (2) The Minister will, for the purposes of this regulation, determine—
- (a) the total number of nights on which aquatic resources may be lawfully taken by holders of licences in respect of the fishery during a prescribed period in a fishing season; and
 - (b) the number of fishing night units that are to be required for the holder of a licence in respect of the fishery to lawfully take aquatic resources under the licence on a night during a prescribed period in a fishing season; and
 - (c) the number of fishing night units that are to be required for the holder of a licence in respect of the fishery to lawfully take aquatic resources under the licence on a night during a prescribed period in a fishing season by using amalgamated gear; and
 - (d) the number of fishing night units that are to be allocated to each licence in respect of the fishery on the commencement of the fishing season ending on 31 July 2015.
- (3) The Minister may, for the purposes of this regulation, determine that fishing night units are to be of 2 or more classes.
- (4) The Minister may impose or vary conditions on licences in respect of the fishery fixing fishing nights entitlements as follows:
- (a) on the commencement of the fishing season beginning on 15 November 2014, the Minister may allocate an equal number of fishing night units to each licence in respect of the fishery (having regard to the matters determined by the Minister under subregulation (2));
 - (b) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery, the Minister may vary the conditions of the licences so as to increase the unit entitlement under 1 of the licences and decrease the unit entitlement under the other licence by a corresponding number of units;
 - (c) a variation of a unit entitlement under paragraph (b) may be expressed to apply only for the fishing season during which the variation is made.
- (5) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and
 - (b) must be signed by the applicants and completed in accordance with the instructions contained in the form; and
 - (c) must be accompanied by the appropriate fee (if any) fixed by the *Fisheries Management (Fees) Regulations 2007*.
- (6) The holder of a licence in respect of the fishery must not engage in a fishing activity under the licence—
- (a) during daylight hours; or
 - (b) during a closed season.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (7) The holder of a licence in respect of the fishery must not engage in a fishing activity under the licence by using amalgamated gear without the approval of the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

9A—Temporary restrictions or prohibitions on certain fishing activities

- (1) The Minister may, by notice given to each holder of a licence in respect of a prawn fishery in a manner determined by the Minister—
- (a) restrict or prohibit fishing activities of a specified class during a specified period; or
 - (b) vary or revoke such a restriction or prohibition.
- (2) A restriction or prohibition under subregulation (1) may be subject to such exceptions and conditions as the Minister thinks fit.
- (3) A person must not contravene, or fail to comply with, a notice under subregulation (1).
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (4) Notice of a restriction or prohibition imposed under subregulation (1) must be published by the Minister in the Gazette as soon as practicable.

10—Catch and disposal records—Gulf St. Vincent Prawn Fishery

- (1) In this regulation—

approved CDR form means a catch and disposal record form approved by the Minister;

CDR book means a book containing approved CDR forms.

- (2) The holder of a licence in respect of the Gulf St. Vincent Prawn Fishery or the registered master of a registered boat from which aquatic resources are taken under such a licence must comply with the following provisions:
- (a) before the aquatic resources are removed from the boat, he or she must complete and sign an approved CDR form;
 - (b) he or she must deliver the completed CDR form to the Minister within 48 hours after the aquatic resources are removed from the boat;
 - (c) he or she must ensure that the CDR book is kept aboard the boat until all the forms in the book are completed;
 - (d) he or she must deliver a completed CDR book to the Minister within 14 days of its completion.

Maximum penalty: \$5 000.

Expiation fee: \$315.

11—Periodic returns

- (1) The holder of a licence in respect of the Gulf St. Vincent Prawn Fishery must—
- (a) complete a return, in a form determined by the Minister, in respect of a trawl shot carried out during a fishing night; and

- (b) include in the return such information as the Minister requires; and
- (c) date and sign the return and certify that the information contained in the return is complete and accurate; and
- (d) post or deliver the return to the Minister within 48 hours after unloading the aquatic resources taken by that trawl shot.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) The holder of a licence in respect of the Spencer Gulf Prawn Fishery or West Coast Prawn Fishery must—

- (a) complete a return, in a form determined by the Minister, in respect of each calendar month during the currency of the licence; and
- (b) include in the return such information as the Minister requires; and
- (c) date and sign the return and certify that the information contained in the return is complete and accurate; and
- (d) post or deliver the return to the Minister within 15 days of the end of the month to which it relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) If the holder of a licence in respect of the Spencer Gulf Prawn Fishery or West Coast Prawn Fishery takes no aquatic resources under the licence during a particular calendar month, he or she is required by subregulation (2) to furnish a return in respect of that period indicating that no aquatic resources were taken.

- (4) The holder of a licence in respect of a prawn fishery must—

- (a) make a copy of each return he or she completes under this regulation before the return is sent or delivered to the Minister; and
- (b) retain a copy for the period of 12 months from the last day of the month to which the return relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) In this regulation—

fishing night has the same meaning as in regulation 9;

trawl shot means setting, towing and retrieval of a trawl net used as a single rig or trawl nets used as a double or triple rig.

Schedule 1—Aquatic resources prescribed for prawn fisheries

Part 1—Aquatic resources prescribed for Gulf St. Vincent & Spencer Gulf Prawn Fisheries

Crustaceans

Bug (*Ibacus* spp)

Molluscs

Southern Calamari (*Sepioteuthis australis*)

Part 2—Aquatic resources prescribed for West Coast Prawn Fishery

Crustaceans

Bug (*Ibacus* spp)

Molluscs

Southern Calamari (*Sepioteuthis australis*)

Octopus (*Octopus* spp)

Scallop (Family Pectinidae)

Gould's Squid (*Nototodarus gouldii*)

Schedule 2—Transitional provisions

1—Eligibility to be granted fishery licence

- (1) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Gulf St. Vincent Prawn Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (2) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Spencer Gulf Prawn Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (3) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Western Coast Prawn Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

Legislative history

Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Formerly

Fisheries (Scheme of Management—Prawn Fisheries) Regulations 2006

Revocation of regulations

The *Fisheries Management (Prawn Fisheries) Regulations 2006* were revoked by Sch 2 cl 1 of the *Fisheries Management (Prawn Fisheries) Regulations 2017* on 15.1.2018.

Legislation revoked by principal regulations

The *Fisheries Management (Prawn Fisheries) Regulations 2006* revoked the following:

Fisheries (Scheme of Management—Prawn Fisheries) Regulations 1991

Principal regulations and variations

Year	No	Reference	Commencement
2006	206	<i>Gazette 24.8.2006 p2961</i>	1.9.2006: r 2
2007	124	<i>Gazette 7.6.2007 p2477</i>	Pt 10 (r 12)—1.7.2007: r 2
2007	175	<i>Gazette 21.6.2007 p2698</i>	Pt 10 (rr 32—34)—21.6.2007: r 2
2007	284	<i>Gazette 29.11.2007 p4504</i>	1.12.2007: r 2
2008	184	<i>Gazette 26.6.2008 p2658</i>	26.6.2008: r 2
2011	26	<i>Gazette 7.4.2011 p983</i>	7.4.2011: r 2
2014	270	<i>Gazette 13.11.2014 p6450</i>	15.11.2014: r 2
2016	259	<i>Gazette 15.11.2016 p4410</i>	15.3.2017: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 1	varied by 284/2007 r 4	1.12.2007
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>21.6.2006</i>
r 3	varied by 284/2007 r 5(7)	1.12.2007

r 3(1)		
Act	substituted by 284/2007 r 5(1)	1.12.2007
<i>continuous brake power rating</i>	<i>deleted by 284/2007 r 5(1)</i>	<i>1.12.2007</i>
<i>fishing period</i>	<i>deleted by 284/2007 r 5(2)</i>	<i>1.12.2007</i>
Gulf St. Vincent	substituted by 284/2007 r 5(2)	1.12.2007
	varied by 184/2008 r 4(1)	26.6.2008
<i>licence period</i>	<i>deleted by 284/2007 r 5(2)</i>	<i>1.12.2007</i>
Mean High Water Springs	inserted by 284/2007 r 5(2)	1.12.2007
prawn	substituted by 284/2007 r 5(3)	1.12.2007
<i>revoked regulations</i>	<i>deleted by 284/2007 r 5(4)</i>	<i>1.12.2007</i>
<i>SARDI</i>	<i>deleted by 284/2007 r 5(4)</i>	<i>1.12.2007</i>
Spencer Gulf	substituted by 284/2007 r 5(4)	1.12.2007
	varied by 184/2008 r 4(2)	26.6.2008
trawl net	inserted by 270/2014 r 4	15.11.2014
West Coast waters	substituted by 284/2007 r 5(5)	1.12.2007
r 3(3)	varied by 284/2007 r 5(6)	1.12.2007
	substituted by 26/2011 r 4(1)	7.4.2011
<i>Notes</i>	<i>deleted by 26/2011 r 4(2)</i>	<i>7.4.2011</i>
r 4		
r 4(2)	varied by 284/2007 r 6	1.12.2007
r 4(3)	varied by 284/2007 r 6	1.12.2007
r 4(4)	varied by 284/2007 r 6	1.12.2007
r 5	substituted by 284/2007 r 7	1.12.2007
r 6	substituted by 284/2007 r 7	1.12.2007
r 6(2)	varied by 270/2014 r 5	15.11.2014
<i>r 7 before substitution by 284/2007</i>		
r 7(6)	<i>substituted by 175/2007 r 32(1)</i>	<i>21.6.2007</i>
r 7(8)	<i>varied by 175/2007 r 32(2)</i>	<i>21.6.2007</i>
r 7	substituted by 284/2007 r 7	1.12.2007
r 7(2)	varied by 26/2011 r 5	7.4.2011
	varied by 270/2014 r 6	15.11.2014
r 8	substituted by 284/2007 r 7	1.12.2007
rr 9—12	<i>deleted by 284/2007 r 7</i>	<i>1.12.2007</i>
rr 9—11	inserted by 270/2014 r 7	15.11.2014
r 9A	inserted by 259/2016 r 4	15.3.2017
<i>r 13 before deletion by 270/2014</i>		
r 13(1)	<i>varied by 284/2007 r 8(1)—(3)</i>	<i>1.12.2007</i>
r 13(2)	<i>varied by 284/2007 r 8(4), (5)</i>	<i>1.12.2007</i>
r 13(3)	<i>varied by 284/2007 r 8(6), (7)</i>	<i>1.12.2007</i>
r 13	<i>deleted by 270/2014 r 8</i>	<i>15.11.2014</i>

Sch 1	substituted by 284/2007 r 9	1.12.2007
Sch 2	substituted by 175/2007 r 33	21.6.2007
	varied by 124/2007 r 12	1.7.2007
	substituted by 284/2007 r 9	1.12.2007
Sch 3	<i>deleted by 284/2007 r 9</i>	1.12.2007

Transitional etc provisions associated with regulations or variations

Fisheries (Fees No 2) Variation Regulations 2007 (No 175 of 2007)

34—Transitional provision

- (1) A fee prescribed by Schedule 2 of the principal regulations as substituted by this Part applies in relation to the licence period commencing on 1 July 2007.
- (2) Despite regulation 33, a fee prescribed by Schedule 2 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to the licence period that commenced on 1 July 2006.

Historical versions

21.6.2007 (electronic only)

1.7.2007

1.12.2007

26.6.2008

7.4.2011

15.11.2014