

SOUTH AUSTRALIA

**FISHERIES (GULF ST. VINCENT PRAWN FISHERY
RATIONALIZATION) ACT 1987**

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **4 April 1996**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Interpretation
4. Transfer of licences
5. Cancellation of licences
6. Compensation
7. Acquisition of vessel and equipment
8. Money expended for the purposes of this Act to be recouped from remaining licensees
9. Minister may borrow money for the purposes of this Act
10. Regulations

SCHEDULE

Amendment of the Fisheries Act 1982

APPENDIX

LEGISLATIVE HISTORY

FISHERIES (GULF ST. VINCENT PRAWN FISHERY RATIONALIZATION) ACT 1987

being

Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act 1987
No. 7 of 1987 [Assented to 9 April 1987]¹

as amended by

Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) (Licence Transfer) Amendment Act 1996
No. 3 of 1996 [Assented to 4 April 1996]

¹ Came into operation 9 April 1987: *Gaz.* 9 April 1987, p. 904.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the Act see Appendix.*

An Act to provide for rationalization of prawn fishing in the Gulf of St. Vincent and Investigator Strait; to amend the Fisheries Act 1982; and for other purposes.

Preamble:

1. *The Copes Inquiry into Prawn Fishing in South Australia concluded that, in order to avoid over-fishing of the Gulf St. Vincent and Investigator Strait fisheries, six vessels must be removed from those fisheries.*
2. *A reduction of two vessels has been achieved by allowing both licences under the Scheme of Management (Investigator Strait Experimental Prawn Fishery) Regulations 1985 to expire, without extension or renewal, on 31 December, 1986.*
3. *A further reduction of one vessel will be achieved by the surrender of a licence in respect of the Gulf St. Vincent Prawn Fishery in accordance with an existing agreement.*
4. *To achieve removal of three more vessels, it is proposed to allow licensees in respect of the Gulf St. Vincent Prawn Fishery time to consider voluntary surrender of their licences and, if insufficient licences are surrendered, to cancel the required number of licences.*
5. *It is proposed to compensate licensees for loss of their licences and to require the remaining licensees, who will benefit from improved fishing in the fisheries, to contribute equally to the cost of providing that compensation.*
6. *The purpose of this Act is therefore to establish a legislative scheme that provides for cancellation (if necessary) of licences, for compensation of former licensees and for recouping the costs of providing that compensation.*

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act 1987*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

"**ballot**" means a ballot conducted by the drawing of lots;

"**former licensee**" means—

- (a) a person who surrendered a licence during the relevant period; or
- (b) a person who held a licence immediately before its cancellation under section 5;
or
- (c) a person who held a licence referred to in clause 2 of the preamble immediately before its expiry;

"**the Fund**" means the Fisheries Research and Development Fund;

"**licence**" means a fishery licence in respect of the Gulf St. Vincent Prawn Fishery;

"**the relevant period**" means the period extending from 1 January, 1987, to the date on which the reduction in the number of licences to 10 is achieved.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the *Fisheries Act 1982*.

Transfer of licences

4. (1) A licence may be transferred with the consent of the Director.

(2) The Director must consent to the transfer of a licence if—

- (a) the criteria prescribed by the regulations are satisfied; and
- (b) an amount representing the licensee's accrued liabilities by way of surcharge under this Act is paid to the Director.

(3) If the registration of a boat is endorsed on a licence that is or is to be transferred, that registration may also be transferred.

Cancellation of licences

5. (1) If at the commencement of this Act there are more than 10 licences in force, the Minister may cancel sufficient licences to reduce the number of licences to that number.

(2) The Minister is not obliged to cancel the licences simultaneously but may proceed gradually by cancelling one licence at a time.

(3) A licence is liable to cancellation under this section if, and only if—

- (a) the licence was in force at the commencement of this Act; and
- (b) the Electoral Commissioner has determined by ballot from amongst all such licences that the licence is liable to cancellation.

(4) At least 14 days notice of the time and place of a ballot under subsection (3) must be given by advertisement in a newspaper circulating generally throughout the State.

(5) A licence is cancelled under this section by publication of a notice of cancellation in the *Gazette*.

Compensation

6. (1) Each former licensee is entitled, in respect of the loss of the licence, to compensation of—

- (a) \$450 000; or
- (b) (i) if the licence was cancelled under this Act—the amount or value of the consideration paid or given by the licensee for transfer of the licence (augmented in proportion to increases in the Consumer Price Index (all groups index for Adelaide) since the date of the transfer);
(ii) in any other case—an amount agreed between the former licensee and the Minister,

whichever is the greater.

(2) Where a global consideration was paid or given for transfer of a licence or other property, the consideration referable to transfer of the licence will be calculated by subtracting the value of that other property as at the date of sale.

(3) Where a licence is cancelled under this Act, the amount of compensation to which the former licensee is entitled under subsection (1) will be determined by agreement between the Minister and the former licensee and, in default of agreement, either the Minister or the former licensee may apply to have the amount determined by the Land and Valuation Court.

(4) The Minister will pay the compensation to which the former licensees are entitled under this section from the Fund.

Acquisition of vessel and equipment

7. (1) The Minister may purchase a former licensee's vessel and equipment at market value.

(2) The purchase price will be paid out of the Fund.

(3) The Minister shall sell any vessel and equipment acquired under this section, and the proceeds of sale must be paid into the Fund.

Money expended for the purposes of this Act to be recouped from remaining licensees

8. (1) For the purpose of defraying the net liabilities of the Fund under this Act, the Minister may, by notice in the *Gazette*—

(a) impose a surcharge on the licence fees payable in respect of licences; or

(b) vary the amount of a surcharge previously imposed.

(2) For the purposes of the *Fisheries Act 1982*, the surcharge will be regarded as a component of the licence fee and, subject to any direction under subsection (3), will be payable and recoverable accordingly.

(3) The Minister may, by written notice to a licensee, give directions as to the payment of the surcharge, or any instalment of the surcharge.

(4) If a licensee fails to pay the surcharge or an instalment of the surcharge within 60 days of the date on which payment falls due, the Minister may, by notice in the *Gazette*, cancel the licence.

(5) The Minister may, by written notice to a licensee exempt the licensee wholly or in part from payment of a surcharge—

(a) if the licensee's licence is liable to cancellation under section 5; or

(b) if the licensee's licence was granted after the commencement of this Act following acceptance of a tender made by or on behalf of the licensee.

(6) When the net liabilities of the Fund under this Act have been extinguished, the Minister must, by notice in the *Gazette*, revoke the surcharge.

(7) A reference in this section to the net liabilities of the Fund under this Act is a reference to—

(a) the aggregate of—

(i) the compensation paid to former licensees; and

- (ii) the amount expended in the purchase of vessels and equipment from former licensees; and
- (iii) the interest and charges in respect of loans under this Act;

less

(b) the aggregate of—

- (i) the net amount realised from the sale of vessels and equipment under this Act; and
- (ii) the amount received by way of surcharges imposed under this Act; and
- (iii) if a new licence is granted following the calling of tenders for the licence—the net proceeds derived from acceptance of the successful tender.

Minister may borrow money for the purposes of this Act

9. (1) The Minister may borrow money for the purposes of this Act.

(2) Money borrowed pursuant to subsection (1) must be paid into the Fund and liabilities incurred in respect of the borrowing will be met from the Fund.

Regulations

10. The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.

(Reprint No. 1)

SCHEDULE

6 **Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act 1987**

SCHEDULE

Amendment of the Fisheries Act 1982

Section 32—

After "this Act" in subsection (2)(c) insert "or under any other Act".

After "this Act" in subsection (3)(b) insert "or by any other Act".

APPENDIX

LEGISLATIVE HISTORY

Section 4:

substituted by 3, 1996, s. 2