

South Australia

Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987

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

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Legislative history

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 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.
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The Parliament of South Australia enacts as follows:

1—Short title

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

3—Interpretation

- (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*.

5—Cancellation of licences

- (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.

6—Compensation

- (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.

7—Acquisition of vessel and equipment

- (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.

8—Charges on licences

- (1) The Minister must, by notice in the Gazette, quantify the net liabilities of the Fund under this Act as at the appointed day.
- (2) As from the appointed day, each licence is charged with a debt calculated by dividing the amount determined under subsection (1) by the number of licences in force on the appointed day.
- (3) The debt charged against a licence will bear interest at a rate (which may vary or be varied from time to time) fixed by the Minister for that licence and the liability to interest is a charge on the licence.

- (4) A licensee must pay the debt, together with interest—
- (a) in quarterly instalments (which may be varied from time to time) fixed by the Minister by notice in the Gazette and payable on a date fixed by the Minister in the notice and thereafter at intervals of three months; or
 - (b) if there is an agreement between the Minister and the licensee as to payment—in accordance with the agreement.
- (5) Where a licence is transferred, the liability of the licensee passes to the transferee.
- (6) Any amount payable by a licensee under this section may be recovered as a debt due to the Crown.
- (7) If a licensee is in arrears for more than 60 days in the payment of an instalment, the Minister may, by notice in writing to the licensee, cancel the licence.
- (8) Where a licence is surrendered on or after the appointed day or is cancelled under subsection (7)—
- (a) no compensation is payable under this Act; and
 - (b) the total amount of the debt charged against the licence becomes immediately due and payable by the person holding the licence at the time of the surrender or cancellation.
- (9) In this section—

appointed day means a day appointed by the Minister for the purposes of this section by notice in the Gazette;

net liabilities of the Fund under this Act means—

- (a) the aggregate of—
 - (i) compensation paid to former licensees before the appointed day; and
 - (ii) the amount expended in the purchase of vessels and equipment from former licensees before the appointed day; and
 - (iii) the interest and charges, that had accrued up to the appointed day, in respect of money borrowed by the Minister under this Act,

less—

- (b) the aggregate of—
 - (i) the net amount realised from the sale of vessels and equipment under this Act before the appointed day; and
 - (ii) the amount received by way of surcharges imposed under this Act.

9—Minister may borrow money for the purposes of this Act

- (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.

10—Regulations

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

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 this Act (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.

Repeal of Act

The *Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987* was repealed by Sch 1 cl 1(b) of the *Fisheries Management Act 2007* on 1.12.2007.

Legislation amended by principal Act

The *Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987* amended the following:

Fisheries Act 1982

Principal Act and amendments

Year	No	Title	Assent	Commencement
1987	7	<i>Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987</i>	9.4.1987	9.4.1987 (<i>Gazette 9.4.1987 p904</i>)
1996	3	<i>Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) (Licence Transfer) Amendment Act 1996</i>	4.4.1996	4.4.1996
1999	49	<i>Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) (Charges on Licences) Amendment Act 1999</i>	12.8.1999	7.10.1999 (<i>Gazette 7.10.1999 p1416</i>)

Provisions amended

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

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	
Preamble		
cl 5	amended by 49/1999 s 3	7.10.1999
s 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 4	<i>substituted by 3/1996 s 2</i> <i>deleted by 49/1999 s 4</i>	4.4.1996 7.10.1999

**Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987—7.10.1999 to 30.11.2007—
repealed**

Legislative history

s 8	substituted by 49/1999 s 5	7.10.1999
<i>Sch</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	

Historical versions

Reprint No 1—4.4.1996