

SOUTH AUSTRALIA

**FISHERIES (SOUTHERN ZONE ROCK LOBSTER FISHERY RATIONALIZATION) ACT
1987**

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **10 June 1993**.*

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

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**FISHERIES (SOUTHERN ZONE ROCK LOBSTER FISHERY
RATIONALIZATION) ACT, 1987**

being

Fisheries (Southern Zone Rock Lobster Fishery
Rationalization) Act, 1987, No. 59 of 1987
[Assented to 17 September 1987]¹

as amended by

Statutes Amendment (Fisheries) Act 1993 No. 31 of 1993 [Assented to 6 May 1993]²

¹ Came into operation 17 September 1987: *Gaz.* 17 September 1987, p. 886.

² Came into operation 10 June 1993: *Gaz.* 27 May 1993, p. 1754.

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

An Act to provide for the rationalization of rock lobster fishing in the Southern Zone; and for other purposes.

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Fisheries (Southern Zone Rock Lobster Fishery Rationalization) Act, 1987*.

Commencement

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

Interpretation

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

"the Authority" means the Southern Zone Rock Lobster Fishery Rationalization Authority:

"the fishery" means the Southern Zone Rock Lobster Fishery:

"the Fund" means the Fisheries Research and Development Fund:

"licence" means a fishery licence in respect of the Southern Zone Rock Lobster Fishery:

"licensee" means the holder of a licence:

"the rationalization period" means the period commencing on the commencement of this Act and ending at the expiration of two years from that time or on publication of a notice pursuant to section 13 whichever occurs first:

"rock lobster pot" or "pot" means a trap for taking rock lobster:

"Southern Zone" means the waters defined as the Southern Zone by the *Scheme of Management (Rock Lobster Fisheries) Regulations 1991*:

"the Southern Zone port associations" means:

Kingston Fishermen's Association Incorporated

Robe Fishermen's Association Incorporated

Beachport Professional Fishermen's Association Incorporated

Southend Professional Fishermen's Association Incorporated

Carpenters Rocks Professional Fishermen's Association Incorporated

and

Port MacDonnell Professional Fishermen's Association Incorporated:

3.

"Southern Zone ports" means the ports of Kingston, Robe, Beachport, Southend, Carpenters Rocks and Port MacDonnell:

"surcharge" means a surcharge imposed under section 11.

The Southern Zone Rock Lobster Fishery Rationalization Authority

4. (1) The *Southern Zone Rock Lobster Fishery Rationalization Authority* is established.

(2) The Authority will consist of 18 members appointed by the Minister of whom—

- (a) one will be the presiding member of the Authority;
 - (b) four will be appointed on the nomination of Port MacDonnell Professional Fishermen's Association Incorporated;
 - (c) two will be appointed on the nomination of Kingston Fishermen's Association Incorporated;
 - (d) two will be appointed on the nomination of Robe Fishermen's Association Incorporated;
 - (e) two will be appointed on the nomination of Beachport Professional Fishermen's Association Incorporated;
 - (f) two will be appointed on the nomination of Southend Professional Fishermen's Association Incorporated;
 - (g) two will be appointed on the nomination of Carpenters Rocks Professional Fishermen's Association Incorporated;
 - (h) one will be appointed on the nomination of the South Australian Fishing Industry Council;
 - (i) one will be a Public Service employee;
- and
- (j) one will be appointed on the nomination of the South Australian Government Financing Authority.

(3) The Minister may appoint a deputy to a member of the Authority and the deputy may, in the absence or during a temporary vacancy in the office of that member, act as a member of the Authority.

(4) A member of the Authority will be appointed on such conditions and for such term as the Minister determines.

(5) The office of a member of the Authority becomes vacant if the member—

- (a) dies;
- (b) completes a term of office and is not reappointed;

4.

(c) resigns by written notice to the Minister;

or

(d) is removed from office by the Minister on the ground of—

(i) mental or physical incapacity to carry out official duties satisfactorily;

(ii) neglect of duty;

or

(iii) misconduct.

(6) The Authority is an instrumentality of the Crown and any liability arising from its acts or omissions, or those of its members, employees or agents in the exercise or purported exercise of official functions, attaches to the Crown.

Procedure at meetings

5. (1) A meeting will be chaired by the presiding member or, in his or her absence, by a member chosen by the members present.

(2) Subject to subsection (3), the Authority may act notwithstanding vacancies in its membership.

(3) Ten members constitute a quorum at a meeting of the Authority.

(4) A decision in which a majority of the members present at a meeting concur is a decision of the Authority.

(5) Subject to this Act, the Authority may determine its own procedures.

(6) The Authority must keep minutes of its proceedings.

Functions of the Authority

6. The functions of the Authority are—

(a) to accept surrenders of licences in accordance with this Act;

and

(b) to carry out the other functions assigned to the Authority by this Act.

Authority may use State employees and facilities

7. The Authority may, with the approval of the Minister make use of employees or facilities of the State.

Transfer of licences

8. (1) Subject to subsection (4), a licensee cannot transfer the licence to another person during the prescribed period.

5.

(2) The prescribed period commences on the commencement of this Act and—

(a) if a notice is published pursuant to section 13—ends on publication of the notice;

but

(b) if such a notice is not published—ends at the expiration of 33 months from the commencement of this Act.

(3) Subject to subsection (4), a licensee cannot transfer his or her licence to another person after the end of the prescribed period unless the licensee has paid to the Minister any accrued liability for surcharge.

(4) This section does not prevent a licensee from transferring the licence to a member of his or her family.

Surrender of licences

9. (1) A licensee may, by application in a form approved by the Minister, request the Authority to accept the surrender of the applicant's licence.

(2) The Authority must, in considering applications under subsection (1) during the first 18 months of the rationalization period, endeavour, as far as possible, to maintain relativity (as existing at the commencement of this Act) in the distribution of pots between the Southern Zone ports and for that purpose may defer an application.

(3) A person who holds a South Australian licence and who also holds a Commonwealth licence issued in conjunction with the South Australian licence cannot surrender the South Australian licence under this Act whilst continuing to hold the Commonwealth licence.

(4) A person who—

(a) is entitled, by virtue of a South Australian licence and a Victorian rock lobster authority to fish for rock lobster in the waters of the Southern Zone and in Victorian waters adjacent to the Southern Zone;

but

(b) is restricted to the use of one boat and one pot allocation in those waters by virtue of the terms of the licence and the authority,

cannot surrender the South Australian licence under this Act whilst continuing to hold the Victorian rock lobster authority.

(5) The Authority must not accept an application after the rationalization period has ended.

(6) Subject to this section, the Authority must accept applications in the order in which they are received.

(7) In this section—

"Commonwealth licence" means a fishing boat licence issued under the *Fisheries Act 1952* of the Commonwealth:

"South Australian licence" means a fishery licence in respect of the Southern Zone Rock Lobster Fishery:

"Victorian rock lobster authority" means an authority issued pursuant to the law of Victoria entitling the holder to use a boat and pots for rock lobster fishing in Victorian waters adjacent to the Southern Zone.

Amount payable on surrender of licence to the Authority

10. (1) The Authority will, by notice published in the *Gazette* within three months from the commencement of this Act, fix the compensation for surrender of the right to use a rock lobster pot registered in respect of the fishery.

(2) The Minister will, within 21 days after the Authority accepts the surrender of a licence, pay the amount determined under subsection (3) from the Fund to the former licensee.

(3) The amount payable is—

(a) the amount fixed by the Authority under subsection (1) multiplied by the number of pots registered in respect of the licence;

less

(b) any amount owing by the licensee by way of surcharge.

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

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

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

(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* on the recommendation of the Authority, cancel or suspend the licence.

(5) 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 amounts paid to former licensees for the surrender of their licences;

(ii) the interest and charges in respect of loans under this Act;

and

(iii) the costs of administering this Act;

less

(b) the amount received by way of surcharges imposed under this Act.

Minister may borrow money for the purposes of this Act

12. (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.

Notice ending the rationalization period

13. If the number of pots registered in respect of the fishery is reduced by 2 400 within two years after the commencement of this Act as a result of the surrender of licences under this Act, the Authority must, by notice in the *Gazette*, declare that the rationalization period is ended.

Report

14. (1) The Authority will prepare reports on the administration of this Act up to the end of March, June, September and December in each year.

(2) The Authority will provide the Minister and the Southern Zone port associations with a copy of each report.

Regulations

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

8.

APPENDIX

LEGISLATIVE HISTORY

Section 3: definition of "Southern Zone" amended by 31, 1993, s. 25
Section 4(2): amended by 31, 1993, s. 26