

SOUTH AUSTRALIA

**FISHERIES (GULF ST. VINCENT PRAWN FISHERY
RATIONALIZATION) REGULATIONS, 1990**

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**REGULATIONS UNDER THE FISHERIES (GULF ST. VINCENT PRAWN
FISHERY RATIONALIZATION) ACT, 1987**

*Fisheries (Gulf St. Vincent Prawn Fishery Rationalization)
Regulations, 1990*

being

No. 28 of 1990: *Gaz.* 1 March 1990, p. 608

as varied by

No. 122 of 1990: *Gaz.* 28 June 1990, p. 1766

No. 154 of 1991: *Gaz.* 27 June 1991, p. 2273¹

¹ Came into operation 27 June 1991: reg. 2

Citation

1. These regulations may be cited as the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Regulations, 1990*.

Interpretation

2. (1) In these regulations—

"the Act" means the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalization) Act, 1987*;

"proprietary company" has the same meaning as in the *Companies (South Australia) Code*;

"share" has the same meaning as in the *Companies (South Australia) Code*.

(2) For the purposes of these regulations, a person is an associate of another if—

(a) they are partners;

(b) they are parties to a contract, arrangement or understanding, the purpose or effect of which is that a party will act at the direction of, or in accordance with, the wishes or instructions of another person when, for the purpose of trade or business, he or she engages or refrains from engaging in a fishing activity of a class that constitutes a fishery;

(c) one is a body corporate and the other is a director or secretary of, or the holder of a share in, that body corporate;

(d) they are bodies corporate that are related to each other for the purposes of the *Companies (South Australia) Code*;

(e) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust;

or

(f) a chain of relationships can be traced between them under one or more of the above paragraphs.

(3) For the purposes of subregulation (2)—

(a) a person is the holder of a share in a body corporate if—

(i) he or she is beneficially entitled to that share;

or

(ii) he or she has a relevant interest in that share;

and

3.

- (b) a person has a relevant interest in a share in a body corporate if the person has a relevant interest in a share for the purposes of Division 4 of Part IV or section 261 of the *Companies (South Australia) Code* (notwithstanding that the share is in a body corporate that is not a company for the purposes of the Code).

Application for transfer of licence: s. 4

3. (1) A joint application for consent to transfer a licence must be made by the holder of the licence and the transferee.

(2) The application—

- (a) must be in a form approved by the Director;
- (b) must contain the information specified in the schedule;
- (c) must contain a nomination by the holder of the licence of the person to whom the licence is to be transferred;

and

- (d) must be verified by statutory declaration.

(3) The application must be lodged with the Director together with—

- (a) the licence to be transferred;
- (b) a form of return as required by the *Scheme of Management (Gulf St. Vincent Prawn Fishery) Regulations, 1984*, completed by the holder of the licence up to the date of application;
- (c) the amount payable in accordance with section 4(2)(b) of the Act;
- (d) payment of any part of the licence fee (excluding the amount referred to in paragraph (c)) that has not been paid;

and

- (e) an application fee of \$200.

Consent of Director to transfer of licence: s. 4

4. Before consenting to the transfer of a licence, the Director must be satisfied as to the following matters:

- (a) that the licence to be transferred has not been suspended;
- (b) that no proceedings alleging an offence under the *Fisheries Act, 1982*, are pending or likely to be commenced in the State against the holder of the licence;
- (c) that the transfer is to one person only;

4.

- (d) that the transferee is a person who—
- (i) in the case of a natural person—is at least 15 years of age;
 - (ii) in the case of a body corporate is a proprietary company;
- and
- (iii) has not, within the period of three years preceding the date of the application for transfer, been convicted in this State or elsewhere in Australia of an offence involving a breach of any legislation relating to fishing;
- (e) that the transferee does not already hold a licence in respect of the fishery or any other fishery;
- (f) that the transferee is not an associate of a person who holds such a licence;
- (g) if any boat registered by endorsement on the licence is the subject of, is registered by endorsement on, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under the Commonwealth Act or the laws of another State or Territory—
- (i) that each of those other licences, permits, authorities or entitlements is either to be transferred at the same time and to the same person as the fishery licence or to be surrendered at that or any earlier time;
- or
- (ii) that—
 - (A) the transfer of the licence separately from some or all of those other licences, permits, authorities or entitlements is not likely to result in fishing activities that endanger or over-exploit fishery resources;
- and
- (B) each of the persons or bodies that granted those other licences, permits, authorities or entitlements concur with the separate transfer of the licence.

5.

SCHEDULE

Information to be Contained in Application for Consent to Transfer Licence

1. Full name of the holder of the licence.
2. The licence number.
3. Full name, date of birth, address (residential and postal) and telephone number of the transferee.
4. The price to be paid for the transfer of—
 - (a) the licence;and
 - (b) any boat, equipment, registration endorsed on the licence,and any other matter or thing, being transferred as part of the transaction.
5. Details of any boat to be used by the transferee to take fish including, in respect of the boat—
 - (a) length (where surveyed—surveyed length);
 - (b) number of current survey certificate;
 - (c) year of construction;
 - (d) material of which hull is made;
 - (e) main colour;
 - (f) name;
 - (g) registration number;
 - (h) description of engine(s) including make, year of manufacture and continuous brake horse power rating as stated by the engine manufacturer's specifications relating to the engine and in accordance with Australian Standard 1501-1976.
6. Details of the number of persons who are to assist the transferee to take fish from the boat or otherwise.
7. Details of the person who is to be the registered master of the boat.
8. Details of any device to be used to take fish.
9. Statements by the transferee as to whether or not the transferee—
 - (a) holds a licence in respect of any fishery;
 - (b) is the associate of a person who holds a licence in respect of any fishery;
 - (ba) is a party to a contract, arrangement or understanding, the purpose or effect of which is that he or she will act at the direction of, or in accordance with, the wishes or instructions of another person when, for the purpose of trade or business, he or she engages or refrains from engaging in a fishing activity of a class that constitutes a fishery;
 - (c) has, during the three years immediately preceding the date of this application, been convicted by a court of a State or Territory of the Commonwealth of an offence involving a breach of legislation relating to fishing.

6.

10. Details in respect of any of the statements made by the transferee in respect of the matters referred to in clause 9.

7.

APPENDIX

LEGISLATIVE HISTORY

Regulation 3(3):	varied by 154, 1991, reg. 3
Regulation 4:	varied by 122, 1990, reg. 2
Schedule	
Clause 9:	varied by 122, 1990, reg. 3