

South Australia

# Fisheries Management (Blue Crab Fishery) Regulations 2013

under the *Fisheries Management Act 2007*

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Schedule 1—Aquatic resources prescribed for Blue Crab Fishery

Part 1—Aquatic resources prescribed for purposes of regulation 4(2)(a)

Part 2—Aquatic resources prescribed for Blue Crab Fishery

Legislative history

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### 1—Short title

These regulations may be cited as the *Fisheries Management (Blue Crab Fishery) Regulations 2013*.

### 3—Interpretation

(1) In these regulations, unless the contrary intention appears—

*Act* means the *Fisheries Management Act 2007*;

*blue crab* means Blue Swimmer Crab (*Portunus armatus*);

*blue crab fishing zone* means—

- (a) the Gulf St. Vincent Blue Crab Fishing Zone; or
- (b) the Spencer Gulf Blue Crab Fishing Zone;

**blue crab pot entitlement** means the maximum number of crab pots that the holder of a licence in respect of the fishery may lawfully use at any one time for the purpose of taking blue crab under the licence;

**blue crab quota entitlement** or **quota entitlement**, in relation to a licence in respect of the Blue Crab Fishery or a marine scalefish fishery and a blue crab fishing zone, means the maximum number of kilograms of blue crab that may lawfully be taken by the holder of the licence in that zone during a quota period, being the product of—

- (a) the unit entitlement under the licence in respect of that zone; and
- (b) the unit value for that zone and that quota period,

subject to any variation applying during that quota period;

**conversion value** means the number determined by the Minister to be the conversion value for a blue crab fishing zone and a quota period;

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

**crab pot** has the same meaning as in the *Fisheries Management (General) Regulations 2017*;

**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;

**Department** means the administrative unit of the Public Service responsible for assisting a Minister in the administration of the Act;

**fishery** means the Blue Crab Fishery constituted by these regulations;

**Gulf St. Vincent Blue Crab Fishing Zone** means the waters of Gulf St. Vincent north of the geodesic from the location on Mean High Water Springs closest to 35°10'04.74" South, 137°40'38.64" East to the location on Mean High Water Springs closest to 35°36'48.51" South, 138°05'44.01" East;

**marine scalefish fishery** means the Marine Scalefish Fishery or the Restricted Marine Scalefish Fishery constituted by the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017*;

**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;

**quota period**—a quota period for the fishery is a period of 12 months commencing on 1 July;

**Spencer Gulf Blue Crab Fishing Zone** means the waters of Spencer Gulf north of the geodesic from the location on Mean High Water Springs closest to 34°26'45.00" South, 136°06'57.58" East to the location on Mean High Water Springs closest to 34°26'45.00" South, 137°24'59.26" East;

**unit entitlement**, in relation to a licence in respect of the Blue Crab Fishery or a marine scalefish fishery and a blue crab fishing zone, means the number of blue crab units for the time being allocated to the licence in respect of that zone;

**unit value** means the number of kilograms of blue crab determined by the Minister to be the value of a blue crab unit for a blue crab fishing zone and a quota period.

- (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 5300—2015 *Australian Fish Names Standard* published by Standards Australia, as in force 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 fishery

- (1) The Blue Crab Fishery is constituted.
- (2) The fishery consists of the taking, in the waters of the blue crab fishing zones—
  - (a) of aquatic resources specified in Schedule 1 Part 1; and
  - (b) of aquatic resources specified in Schedule 1 Part 2 for the purpose of bait.
- (3) The Minister may impose a condition on a licence in respect of the fishery that limits the holder of the licence to the taking of aquatic resources in the waters of the Gulf St. Vincent Blue Crab Fishing Zone or the Spencer Gulf Blue Crab Fishing Zone.

#### 5—Issue of licences

- (1) Subject to this regulation, the Minister may issue licences in respect of the fishery.
- (2) An application for a licence in respect of the fishery may only be made by a person who holds a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a blue crab quota entitlement.
- (3) The Minister may only grant an application for a licence in respect of the fishery—
  - (a) if the applicant's licence in respect of the Marine Scalefish Fishery has been surrendered; and

- (b) if a boat registered for use under that licence is the subject of, is registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take aquatic resources granted under a law of the Commonwealth or a corresponding law—that entitlement has also been surrendered.

## 6—Transfer of licence

- (1) Licences in respect of the 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 12 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) 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 the fishery;
  - (e) 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 the fishery;
  - (f) if a boat registered for use under the licence is the subject of, is registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take aquatic resources 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

An application by the holder of a licence in respect of the 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.

## 8—Revocation of registration

- (1) The Minister may, on application by the holder of a licence in respect of the 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 completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the documents specified in the application form.

## 9—Blue crab pot entitlements and carriage of crab pots on boats

- (1) The Minister must, on or before the commencement of each quota period, determine the conversion value for a blue crab fishing zone and the quota period.
- (2) The Minister may impose or vary conditions on licences in respect of the fishery fixing blue crab pot entitlements as follows:
  - (a) on the issue of a licence in respect of the fishery, a condition must be imposed on the licence fixing a blue crab pot entitlement calculated in accordance with the formula set out in subregulation (3);
  - (b) on the variation of a blue crab quota entitlement under a licence in respect of the fishery, the conditions of the licence must be varied so that the blue crab pot entitlement under the licence, as calculated in accordance with the formula set out in subregulation (3), reflects the variation in the unit entitlement under the licence;
  - (c) blue crab pot entitlements must not be varied except as provided by this subregulation.
- (3) For the purposes of subregulation (2), the formula for calculating the blue crab pot entitlement under a licence is as follows:

$$A = \frac{B}{C}$$

where—

*A* is the blue crab pot entitlement expressed as a whole number (a number having a fraction of half or more being rounded up to the next whole number);

*B* is the unit entitlement under the licence;

*C* is the conversion value for the blue crab fishing zone to which the unit entitlement under the licence relates.

- (4) The Minister may impose conditions on licences in respect of the fishery limiting the number of crab pots that may be carried on boats and otherwise regulating the carrying of crab pots used for fishing activities under the licences.

## 10—Individual blue crab catch quota system

- (1) The Minister must, on or before the commencement of each quota period, determine the number of kilograms of blue crab that is to be the value of a blue crab unit for a blue crab fishing zone and the quota period.
- (2) The Minister may impose or vary conditions on licences in respect of the Blue Crab Fishery or a marine scalefish fishery fixing blue crab quota entitlements as follows:
  - (a) on the issue of a licence in respect of the Blue Crab Fishery (a *new licence*), the licence may be allocated a number of blue crab units in respect of a blue crab fishing zone equal to the number of blue crab units in respect of that zone that was, immediately before the surrender of the licence in respect of the Marine Scalefish Fishery held by the applicant for the new licence, the subject of a condition of the licence in respect of the Marine Scalefish Fishery;
  - (b) on joint application made to the Minister by the holders of any 2 licences in respect of the Blue Crab Fishery subject to a condition fixing a blue crab quota entitlement in respect of the same blue crab fishing zone, the conditions of the licences may be varied so as to increase the unit entitlement in respect of that zone under 1 of the licences and decrease the unit entitlement in respect of that zone under the other licence by a corresponding number of units;
  - (c) on joint application made to the Minister by the holder of a licence in respect of the Blue Crab Fishery subject to a condition fixing a blue crab quota entitlement in respect of a particular blue crab fishing zone (the *first licence*) and the holder of a licence in respect of a marine scalefish fishery subject to a condition fixing a blue crab quota entitlement in respect of the same zone (the *second licence*)—
    - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence in respect of that zone by a corresponding number of units; or
    - (ii) the conditions of the first licence may be varied so as to increase the unit entitlement under that licence in respect of that zone and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone by a corresponding number of units;

- (d) on joint application made to the Minister by the holder of a licence in respect of the Blue Crab Fishery subject to a condition fixing a blue crab quota entitlement in respect of a particular blue crab fishing zone (the *first licence*) and the holder of a licence in respect of a marine scalefish fishery not subject to a condition fixing a blue crab quota entitlement (the *second licence*)—
    - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone; and
    - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a blue crab quota entitlement in respect of that zone may be imposed on that licence;
  - (da) if the total catch of blue crab taken by the holder of a licence in respect of the Blue Crab Fishery subject to a condition fixing a blue crab quota entitlement in respect of a particular blue crab fishing zone during the quota period 2019-2020 is less than the blue crab quota entitlement under the licence for that fishing zone and that quota period, the Minister may vary the conditions of the licence so as to increase the blue crab quota entitlement in respect of that fishing zone for the quota period 2020-2021 by up to 1 kilogram of blue crab for each kilogram by which the catch fell short of the blue crab quota entitlement for the quota period 2019-2020;
  - (e) if the total catch of blue crab taken by the holder of a licence in respect of the Blue Crab Fishery during a quota period exceeded the blue crab quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the quota entitlement—
    - (i) if the catch exceeded the quota entitlement by not more than 20 kilograms of blue crab—by 1 kilogram for each kilogram taken in excess of the quota entitlement; or
    - (ii) if the catch exceeded the quota entitlement by more than 20 kilograms but not more than 50 kilograms of blue crab—by 2 kilograms for each kilogram taken in excess of the quota entitlement;
  - (f) if—
    - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing a blue crab quota entitlement; and
    - (ii) the conduct constituting the offence involved the taking of more than 50 kilograms of blue crab in excess of the quota entitlement,the conditions of the licence may be varied so as to reduce the blue crab quota entitlement under the licence for 3 quota periods following the conviction by 1 kilogram for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed;
  - (g) a variation of a quota entitlement under paragraph (e) must be expressed to apply only for the quota period during which the variation is made.
- (3) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and

- (b) be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the prescribed fee.
- (4) In this regulation—
- quota period 2019-2020* means the quota period that ended on 30 June 2020;
- quota period 2020-2021* means the quota period ending on 30 June 2021.

## 11—Catch and disposal requirements

- (1) The holder of a licence in respect of the fishery or the registered master of a registered boat from which blue crab is taken under such a licence must comply with the following provisions:
- (a) the holder of the licence or registered master must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the catch and disposal of blue crabs taken under the licence as determined by the Minister;
  - (b) the holder of the licence or registered master must provide such information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the holder of the licence or registered master must ensure that blue crab taken under the licence are weighed, stored, placed in containers, sealed, tagged, and transported, delivered, consigned or otherwise disposed of, and accompanied by such information, in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the holder of the licence and the registered master of the registered boat are each guilty of an offence.
- Maximum penalty: \$5 000.  
Expiation fee: \$500.
- (3) The holder of a licence must keep records made under subregulation (1) in the manner, at such place, and for such period as determined by the Minister.
- Maximum penalty: \$5 000.  
Expiation fee: \$315.

## 12—Periodic returns

- (1) The holder of a licence in respect of the fishery must provide the Department with such returns in the manner and form, at such times and containing such information, as determined by the Minister.
- Maximum penalty: \$5 000.  
Expiation fee: \$500.
- (2) The holder of a licence in respect of the fishery must keep a record of each return that the licence holder provides to the Department under this regulation in such manner, and for such period, as determined by the Minister.
- Maximum penalty: \$5 000.  
Expiation fee: \$500.



### **13—Provision relating to keeping of records**

A person required under these regulations to keep a record for a period of time must ensure that the record—

- (a) is maintained in a good condition and is legible; and
- (b) is kept so that it is readily accessible; and
- (c) is produced for inspection by a fisheries officer on request.

Maximum penalty: \$2 500.

Expiation fee: \$210.

### **14—Minister's determinations**

- (1) The Minister may make a determination for the purposes of a regulation.
- (2) A determination may—
  - (a) be of general or limited application; and
  - (b) make different provision according to the persons, things or circumstances to which it is expressed to apply.
- (3) If the Minister makes a determination for the purposes of a regulation, notice of the determination—
  - (a) must be published on the Department's website; and
  - (b) may also be published in the Gazette.
- (4) As soon as practicable after a determination of the Minister is made, a notice in writing setting out the date on which notice of the determination is published and the terms of the determination must be given to the persons bound by the determination in a manner and form that, in the opinion of the Minister, will bring the determination to the attention of those persons.
- (5) The Minister may, by further determination, vary or revoke a determination.
- (6) This regulation does not apply in relation to a determination made for the purposes of regulation 9 or 10.

## **Schedule 1—Aquatic resources prescribed for Blue Crab Fishery**

### **Part 1—Aquatic resources prescribed for purposes of regulation 4(2)(a)**

#### **Crustaceans**

Blue Swimmer Crab (*Portunus armatus*)

Rock Crab (*Nectocarcinus integrifrons*)

Spider Crab (Family Majidae)

Velvet Crab (*Nectocarcinus tuberculatus*)

## Part 2—Aquatic resources prescribed for Blue Crab Fishery

### Molluscs

Octopus (*Octopus* spp)

Gould's Squid (*Nototodarus gouldi*)

### Scalefish

Australian Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Black Bream (*Acanthopagrus butcheri*)

Cod (marine species) (Family Moridae)

Flathead (Family Platycephalidae)

Flounder (Family Bothidae or Pleuronectidae)

Bluespotted Goatfish (*Upeneichthys vlamingii*)

Eastern Striped Grunter (*Pelates sexlineatus*)

Australian Herring (*Arripis georgianus*)

Yellowtail Kingfish (*Seriola lalandi*)

Leatherjacket (Family Monacanthidae)

Blue Mackerel (*Scomber australasicus*)

Common Jack Mackerel (*Trachurus declivis*)

Morwong (Family Cheilodactylidae)

Mullet of all species (Family Mugilidae)

Mulloy (*Argyrosomus japonicus*)

West Australian Salmon (*Arripis truttaceus*)

Australian Sardine (*Sardinops sagax*)

Snook (*Sphyraena novaehollandiae*)

Southern Sole (*Aseraggodes haackeanus*)

Sea Sweep (*Scorpiis aequipinnis*)

Trevally (*Carangidae* spp)

Wrasse (*Labridae*) (other than Western Blue Groper (*Achoerodus gouldii*))

### Sharks

Rays of all species (Class Elasmobranchii)

Shark of all species (Class Elasmobranchii) other than White Shark (*Carcharodon carcharias*)

Skate of all species (Class Elasmobranchii)

## Legislative history

### Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- 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](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Fisheries Management (Blue Crab Fishery) Regulations 2013* revoked the following:

*Fisheries Management (Blue Crab Fishery) Regulations 1998*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2013	214	<i>Gazette 29.8.2013 p3664</i>	1.9.2013: r 2
2017	221	<i>Gazette 8.8.2017 p3179</i>	15.1.2018: r 2
<b>2020</b>	<b>261</b>	<b><i>Gazette 27.8.2020 p4408</i></b>	<b>27.8.2020: r 2</b>
2021	92	<i>Gazette 24.6.2021 p2368</i>	1.7.2021: r 2

### Provisions varied

New entries appear in bold.

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

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>15.1.2018</i>
r 3		
r 3(1)		
crab pot	varied by 221/2017 r 4(1)	15.1.2018
Department	substituted by 221/2017 r 4(2)	15.1.2018
marine scalefish fishery	varied by 221/2017 r 4(3)	15.1.2018
r 3(3)	varied by 221/2017 r 4(4), (5)	15.1.2018
r 8		
r 8(2)	varied by 221/2017 r 5	15.1.2018
r 10		

<b>r 10(2)</b>	<b>varied by 261/2020 r 4(1)</b>	<b>27.8.2020</b>
r 10(3)	varied by 221/2017 r 6(1), (2)	15.1.2018
<b>r 10(4)</b>	<b>inserted by 261/2020 r 4(2)</b>	<b>27.8.2020</b>
r 11	substituted by 221/2017 r 7	15.1.2018
r 12	substituted by 221/2017 r 8	15.1.2018
rr 13 and 14	inserted by 221/2017 r 8	15.1.2018
Sch 1		
Pt 2	varied by 221/2017 r 9(1)—(4)	15.1.2018
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>15.1.2018</i>

## **Historical versions**

15.1.2018