

South Australia

## Fisheries Management (Charter Boat Fishery) Regulations 2005

under the *Fisheries Management Act 2007*

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### Legislative history

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#### 1—Short title

These regulations may be cited as the *Fisheries Management (Charter Boat Fishery) Regulations 2005*.

**Note—**

These regulations prescribing a scheme of management for a fishery under the repealed *Fisheries Act 1982* were continued in force by Sch 1 cl 5(1) of the *Fisheries Management Act 2007* as if they were regulations for the management of the fishery made under the *Fisheries Management Act 2007*.

#### 3—Interpretation

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

**Aboriginal corporation** has the same meaning as in the *Aboriginal Councils and Associations Act 1976* of the Commonwealth;

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

**charter boat** means a boat that is used for recreational fishing under charter boat fishing agreements;

**charter boat fishing agreement** means an agreement made by a person in the course of a business under which the person agrees, for money or other consideration, to facilitate recreational fishing by persons by the provision of charter boat fishing services to the persons;

**charter boat fishing business** means the business of facilitating recreational fishing by persons by the provision of charter boat fishing services to the persons under charter boat fishing agreements;

**charter boat fishing services** means carrying persons as passengers on a boat and otherwise assisting or enabling the persons to engage in recreational fishing from the boat;

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

**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;

**eligible person** means—

- (a) a natural person or company carrying on a charter boat fishing business that was established on or before 28 November 2003; or
- (b) a natural person or company carrying on a charter boat fishing business that was in the process of being established on 28 November 2003; or
- (c) an Aboriginal corporation that—
  - (i) has a business plan for a charter boat fishing business; and
  - (ii) is a party to an indigenous land use agreement with the State under which it is agreed that a licence in respect of the fishery will be issued to the corporation; or
- (d) an Aboriginal corporation or incorporated association that—
  - (i) has a business plan for a charter boat fishing business; and
  - (ii) has been established by a native title group for the purpose of implementing an indigenous land use agreement with the State under which it is agreed that a licence in respect of the fishery will be issued to the corporation or association;

**fishery** means the Charter Boat Fishery constituted by these regulations;

**incorporated association** has the same meaning as in the *Associations Incorporation Act 1985*;

**indigenous land use agreement** means an indigenous land use agreement registered under Part 2 Division 3 of the *Native Title Act 1993* of the Commonwealth;

*policy of insurance* includes a cover note that is binding on the insurer.

- (2) In these regulations—
  - (a) unless the contrary intention appears, *company, director, proprietary company* and *public company* have the same respective meanings as in the Corporations Act;
  - (b) 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 Charter Boat Fishery is constituted.
- (2) The Charter Boat Fishery consists of facilitating recreational fishing by persons by the provision of charter boat fishing services to the persons under charter boat fishing agreements.

#### **5—Application of regulations**

These regulations do not apply in relation to recreational fishing in inland waters.

#### **6—Issue of licences**

- (1) The Minister may issue licences in respect of the fishery.
- (2) Before granting a licence in respect of the fishery, the Minister must be satisfied of all of the following:
  - (a) that the applicant is an eligible person;
  - (b) if the applicant is a natural person, that the person is a fit and proper person to hold a licence in respect of the fishery;
  - (c) if the applicant is a body corporate, that every member of the governing body of the body corporate is a fit and proper person to be a member of the governing body of a body corporate that holds a licence in respect of the fishery.

#### **7—Transfer of licences**

- (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 14 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 body corporate, that every member of the governing body of the body corporate is a fit and proper person to be a member of the governing body of a body corporate that holds a licence in respect of the fishery;
- (f) if a boat is registered for use under the licence, that there is in force a policy of public liability insurance under which the transferee is insured or indemnified in an amount of at least \$10 000 000 in relation to death or bodily injury or property damage that may be caused by or arise out of the use of the boat under the licence.

## **8—Registration**

- (1) 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.
- (2) The Minister may only grant an application to register a boat for use under a licence in respect of the fishery if satisfied that there is in force a policy of public liability insurance under which the applicant is insured or indemnified in an amount of at least \$10 000 000 in relation to death or bodily injury or property damage that may be caused by or arise out of the use of the boat under the licence.

## **9—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 signed by the applicant and be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the documents specified in the application form.

## **10—Conditions limiting number of boats that may be used etc**

The Minister may impose conditions on a licence in respect of the fishery—

- (a) limiting the number of registered boats that may be used under the licence at any 1 time;

- (b) limiting the number of devices that may be carried on registered boats used under the licence and otherwise regulating the carrying of devices on such boats;
- (c) limiting the area of waters within which registered boats may be used under the licence.

#### **14—Periodic returns**

- (1) The holder of a licence in respect of the fishery must—
  - (a) fill out a return in a form determined by the Minister, in respect of each calendar month during the currency of the licence; and
  - (b) include in the return such information as the Minister requires; and
  - (c) date and sign the return and certify that the information contained in the return is complete and accurate, and post or deliver the return to the Minister within 15 days of the end of the month to which it relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If no aquatic resources are taken during a particular calendar month by use of a boat registered for use under a licence in respect of the fishery, the holder of the licence is required by subregulation (1) to furnish a return in respect of that period indicating that no aquatic resources were taken.

#### **15—Copies of periodic returns must be made and kept**

The holder of a licence in respect of the fishery must—

- (a) make a copy of each return that he or she fills out pursuant to these regulations before the return is sent or delivered to the Minister; and
- (b) retain the copy for the period of one year from the last day of the month to which the return relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

## 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 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).

### Formerly

*Fisheries (Scheme of Management—Charter Boat Fishery) Regulations 2005*

### Revocation of regulations

The *Fisheries Management (Charter Boat Fishery) Regulations 2005* were revoked by Sch 1 of the *Fisheries Management (Charter Boat Fishery) Regulations 2016* on 6.2.2017.

### Principal regulations and variations

Year	No	Reference	Commencement
2005	168	<i>Gazette 21.7.2005 p2467</i>	1.8.2005: r 2
2006	136	<i>Gazette 15.6.2006 p1859</i>	Pt 6 (rr 11 & 12)—15.6.2006: r 2
2006	138	<i>Gazette 15.6.2006 p1870</i>	Pt 6 (r 8)—1.7.2006: r 2
2007	124	<i>Gazette 7.6.2007 p2477</i>	Pt 6 (r 8)—1.7.2007: r 2
2007	175	<i>Gazette 21.6.2007 p2698</i>	Pt 6 (rr 18—21)—21.6.2007: r 2
2007	280	<i>Gazette 29.11.2007 p4467</i>	1.12.2007: r 2

### Provisions varied

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

Provision	How varied	Commencement
r 1	varied by 280/2007 r 4	1.12.2007
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>15.6.2006</i>
r 3		
r 3(1)		
Act	substituted by 280/2007 r 5(1)	1.12.2007
Corporations Act	inserted by 280/2007 r 5(2)	1.12.2007
current company extract	inserted by 280/2007 r 5(2)	1.12.2007
<i>licence period</i>	<i>deleted by 280/2007 r 5(3)</i>	<i>1.12.2007</i>
<i>recreational fishing</i>	<i>deleted by 280/2007 r 5(3)</i>	<i>1.12.2007</i>

<i>SARDI</i>	<i>deleted by 280/2007 r 5(3)</i>	<i>1.12.2007</i>
r 3(2)	substituted by 280/2007 r 5(4)	1.12.2007
<i>r 5 before substitution by 280/2007</i>		
r 5(6)	<i>varied by 175/2007 r 18</i>	<i>21.6.2007</i>
rr 5 and 6	substituted by 280/2007 r 6	1.12.2007
<i>r 7 before substitution by 280/2007</i>		
r 7(6)	<i>substituted by 175/2007 r 19(1)</i>	<i>21.6.2007</i>
r 7(8)	<i>varied by 175/2007 r 19(2)</i>	<i>21.6.2007</i>
rr 7—10	substituted by 280/2007 r 6	1.12.2007
rr 11—13	<i>deleted by 280/2007 r 6</i>	<i>1.12.2007</i>
r 14		
r 14(1)	varied by 280/2007 r 7(1)—(3)	1.12.2007
r 14(2)	substituted by 280/2007 r 7(4)	1.12.2007
r 15	varied by 280/2007 r 8(1), (2)	1.12.2007
r 16	<i>deleted by 280/2007 r 9</i>	<i>1.12.2007</i>
<i>Sch 1</i>	<i>substituted by 136/2006 r 11</i>	<i>15.6.2006</i>
	<i>varied by 138/2006 r 8</i>	<i>1.7.2006</i>
	<i>substituted by 175/2007 r 20</i>	<i>21.6.2007</i>
	<i>varied by 124/2007 r 8</i>	<i>1.7.2007</i>
	<i>deleted by 280/2007 r 10</i>	<i>1.12.2007</i>

## **Transitional etc provisions associated with regulations or variations**

### ***Fisheries (Fees) Variation Regulations 2006 (No 136 of 2006)***

#### **12—Transitional provision**

- (1) A fee prescribed by Schedule 1 of the principal regulations as substituted by this Part applies in relation to the licence period commencing on 1 July 2006.
- (2) Despite regulation 11, a fee prescribed by Schedule 2 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to the licence period that commenced on 1 July 2005.

### ***Fisheries (Fees No 2) Variation Regulations 2007 (No 175 of 2007)***

#### **21—Transitional provision**

- (1) A fee prescribed by Schedule 1 of the principal regulations as substituted by this Part applies in relation to the licence period commencing on 1 July 2007.
- (2) Despite regulation 20, a fee prescribed by Schedule 1 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to the licence period that commenced on 1 July 2006.

## **Historical versions**

15.6.2006

1.7.2006

21.6.2007 (electronic only)

1.7.2007