

South Australia

Fisheries (Scheme of Management—Marine Scalefish Fisheries) Variation Regulations 2004

under the *Fisheries Act 1982*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Variation Regulations 2004*.

2—Commencement

These regulations will come into operation on 1 October 2004.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991*

4—Variation of regulation 10—Transfer of licences

Regulation 10(1) and (2)—delete subregulations (1) and (2) and substitute:

- (1) Subject to these regulations, a licence in respect of a marine scalefish fishery may be transferred with the consent of the Director.
 - (2) A licence in respect of the Restricted Marine Scalefish Fishery cannot be transferred to the holder of another licence in respect of that fishery.
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5—Variation of regulation 10B—Transfer of licences under amalgamation scheme

- (1) Regulation 10B(1), definition of *aggregate fishing points value*—delete "two" and substitute:

2 or more
- (2) Regulation 10B(1), definition of *aggregate gear entitlement*—delete "two" and substitute:

2 or more
- (3) Regulation 10B(1), definition of *licence*—delete "the Marine Scalefish Fishery" and substitute:

a marine scalefish fishery
- (4) Regulation 10B(2)—after "net licences" first occurring insert:

in respect of the Marine Scalefish Fishery
- (5) Regulation 10B(2)—after "line licences" first occurring insert:

in respect of that fishery
- (6) Regulation 10B(3)—after "licence" first occurring insert:

in respect of the Marine Scalefish Fishery
- (7) Regulation 10B—after subregulation (3) insert:
 - (3a) The Director must endorse on each licence in respect of the Restricted Marine Scalefish Fishery a fishing points value of 7.
- (8) Regulation 10B(4)—delete "subregulation (3)" and substitute:

this regulation
- (9) Regulation 10B(5)—delete subregulation (5) and substitute:
 - (5) Subject to regulation 10, a licence may then be transferred as authorised under the following provisions:
 - (a) a net licence in respect of the Marine Scalefish Fishery may be transferred to the holder of another net licence in respect of that fishery;
 - (b) a line licence in respect of the Marine Scalefish Fishery may be transferred to the holder of another line licence in respect of that fishery;
 - (c) 1 or 2 licences in respect of the Restricted Marine Scalefish Fishery may be transferred to the holder of a licence in respect of the Marine Scalefish Fishery;
 - (d) when a transfer of a kind referred to in a preceding paragraph has effect, the transferee must surrender to the Director 1 of the 2 licences, or 2 of the 3 licences, as the case may be, then held by the transferee;

- (e) if 1 or more of the licences held by the transferee has recorded on it under section 56 of the Act a conviction for an offence committed within the preceding period of 3 years, the licence or licences surrendered must be—
 - (i) the licence or licences without such a conviction, or as the case may require, the licence or licences with the lesser number of such convictions, recorded on the licence or licences; or
 - (ii) if the same number of such convictions is recorded on each licence—the licence or licences other than the licence with a conviction recorded on it for the most recently committed offence;
- (f) where 1 or more licences are to be surrendered but—
 - (i) the last renewal fee for a licence to be surrendered has not been paid in full; or
 - (ii) an additional amount is required to be paid for late payment of an instalment of the renewal fee,
the balance of the renewal fee and any such additional amount must be paid before or when that licence is surrendered;
- (g) on the surrender of a licence and payment of any amount required to be paid under paragraph (f) in respect of the licence, the Director must—
 - (i) replace the gear endorsement of the remaining licence held by the transferee with a gear endorsement that makes provision for the aggregate gear entitlement in relation to that licence and the surrendered licence or licences; and
 - (ii) vary the fishing points value endorsed on the remaining licence under this regulation so that it equals the aggregate fishing points value in relation to that licence and the surrendered licence or licences;
- (h) when, as a result of the process referred to in paragraphs (a) to (g), the fishing points value endorsed on a licence under this regulation equals or exceeds 24, the licence may be transferred without complying with those paragraphs;
- (i) paragraph (h) does not prevent the holder of a licence with a fishing points value that equals or exceeds 24 from transferring the licence under the process referred to in paragraphs (a) to (g).

6—Variation of Schedule 2—Fees

Schedule 2, clause 3—delete "the Marine Scalefish Fishery" and substitute:
a marine scalefish fishery

Fisheries (Scheme of Management—Marine Scalefish Fisheries) Variation Regulations 2004
Part 2—Variation of *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991*

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 23 September 2004

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