

South Australia

Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 2006

under the *Fisheries Act 1982*

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1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 2006*.

2—Commencement

These regulations will come into operation on 1 September 2006.

3—Interpretation

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

Act means the *Fisheries Act 1982*;

coastal waters means the waters of the ocean and all bays, gulfs, straits, passages, inlets and estuaries of the State that are subject to the tidal influence of the sea;

fishery means the Lakes and Coorong Fishery constituted by these regulations;

Lakes and Coorong means the waters of the Coorong, Lake Alexandrina, Lake Albert and the coastal waters out to 3 nautical miles from the low water mark from the seaward extension of the Goolwa Beach Road to the jetty at Kingston;

mesh net has the same meaning as in the *Fisheries (General) Regulations 2000* and includes a drum net as defined in those regulations;

mesh net entitlement means the maximum number of mesh nets that the holder of a licence in respect of the fishery may lawfully use at any 1 time for the purpose of taking fish pursuant to the licence;

revoked regulations means the regulations revoked by Schedule 3;

SARDI means the South Australian Research and Development Institute;

yabbie pot has the same meaning as in the *Fisheries (General) Regulations 2000* and includes a drop net and hoop net as defined in those regulations;

yabbie pot entitlement means the maximum number of yabbie pots that the holder of a licence in respect of the fishery may lawfully use at any 1 time for the purpose of taking fish pursuant to the licence.

- (2) In these regulations, a reference to the **taking of fish** includes a reference to an act preparatory to, or involved in, the taking of the fish.

4—Constitution of fishery

- (1) The Lakes and Coorong Fishery is constituted.
- (2) The Lakes and Coorong Fishery consists of—
- (a) the taking of fish specified in Schedule 1 in the Lakes and Coorong; and
 - (b) the taking of razor fish (*Pinna bicolor*) in the Lakes and Coorong for the purpose of bait.

5—No further licences to be granted

The licences in respect of the fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the fishery subject to the provisions of the Act and these regulations, and no other licences may be granted in respect of the fishery.

6—Expiry of licence

A licence in respect of the fishery expires on 30 June following the date of its last renewal.

7—Renewal of licence

- (1) A licence in respect of the fishery may be renewed by the Director on application made before the expiry of the licence or before the end of the licence period following the expiry of the licence.
- (2) An application to renew a licence must be made by the holder of the licence or, if the licence has expired, by the person who last held the licence.

- (3) An application to renew a licence must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant.
- (4) If an application to renew a licence is made before the expiry of the licence, the renewal of the licence takes effect from the expiry of the licence.
- (5) If an application to renew a licence is made after the expiry of the licence, the renewal of the licence takes effect from the date on which the application is granted.
- (6) The Director must not renew a licence unless the applicant has paid—
 - (a) —
 - (i) the renewal fee specified in Schedule 2 less \$90; or
 - (ii) the first instalment of the renewal fee specified in Schedule 2, in accordance with subregulation (7); and
 - (b) the amount of any previous renewal fee remaining payable in respect of the licence, together with any additional amount payable for late payment of an instalment of the renewal fee.
- (7) If an application to renew a licence is made before or within 3 months after the expiry of the licence, the renewal fee may be paid by 4 equal instalments payable on or before the date of renewal of the licence and 1 October, 1 January and 1 April following the date of renewal.
- (8) If an instalment of a renewal fee is not paid in full within 21 days after the due date for payment, an additional amount equal to 10 per cent of the amount of the instalment is payable.
- (9) If—
 - (a) an instalment of a renewal fee for a licence is not paid in full on or before the due date; or
 - (b) an additional amount is required to be paid for late payment of an instalment of a renewal fee,

the amount unpaid may be recovered from the holder of the licence or the person who last held the licence as a debt due to the Crown.

8—Refund on surrender of licence

If a licence in respect of the fishery is surrendered, the Director must, on application by the former licensee made in a form approved by the Director, refund an amount that bears to the renewal fee last paid in respect of the licence the same proportion as the number of complete months from the date of surrender to the day on which the following licence period commences bears to the number of months in the licence period during which the licence was surrendered.

9—Transfer of licence

- (1) A licence in respect of the fishery may be transferred with the consent of the Director.

- (2) An application for consent to the transfer of a licence must—
- (a) be made jointly by the holder of the licence and the transferee in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicants; and
 - (d) be verified by statutory declaration; and
 - (e) be lodged with the Director together with—
 - (i) the licence to be transferred; and
 - (ii) a form of return as required by regulation 16 completed by the holder of the licence up to the date of application; and
 - (iii) the application fee specified in Schedule 2.
- (3) Before consenting to the transfer of a licence, the Director must be satisfied—
- (a) that the licence to be transferred has not been suspended; and
 - (b) that no proceedings alleging an offence under the Act are pending or likely to be commenced in the State against the holder of the licence; and
 - (c) that the transfer is to 1 person only; and
 - (d) that the transferee is a natural person who—
 - (i) is at least 15 years of age; and
 - (ii) has not, within the period of 3 years preceding the date of application, been convicted in the State or elsewhere in Australia of an offence involving a breach of legislation relating to fishing; and
 - (e) that no proceedings alleging an offence involving a breach of legislation relating to fishing are pending or likely to be commenced in the State or elsewhere in Australia against the transferee; and
 - (f) if a boat registered by endorsement of the licence is the subject of, is registered by endorsement of, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under the Commonwealth Act or the law of another State or Territory—
 - (i) that the entitlement is either to be transferred together with the fishery licence to the transferee or to be surrendered on or before the transfer of the fishery licence; or
 - (ii) that—
 - (A) the transfer of the fishery licence separately from entitlement is not likely to result in fishing activities that endanger or overexploit fishery resources; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

10—Registration of boats

- (1) An application to register a boat to be used pursuant to a licence in respect of the fishery must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant; and
 - (d) be accompanied by the applicant's licence in respect of the fishery.
- (2) Before granting registration of the boat the Director must be satisfied that the applicant is the holder of a licence in respect of the fishery.

11—Registration as master

- (1) An application for registration of a person as the master of a boat used pursuant to a licence in respect of the fishery must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant; and
 - (d) be accompanied by the applicant's licence in respect of the fishery.
- (2) A person other than the holder of the licence cannot be registered as the master of a boat used pursuant to the licence unless the holder of the licence is already registered as the master of a boat used pursuant to a fishery licence.

12—Revocation of registration

- (1) The Director may, on application by the holder of a licence in respect of the fishery, revoke any registration effected by endorsement of the licence.
- (2) An application for revocation of a registration must—
 - (a) be made in a form approved by the Director; and
 - (b) be signed by the applicant; and
 - (c) be accompanied by the applicant's licence in respect of the fishery.

13—Mesh net and yabbie pot entitlements

- (1) The Director may impose or vary conditions on licences in respect of the fishery fixing mesh net entitlements as follows:
 - (a) a mesh net entitlement may be fixed by condition of a licence but must not exceed 100;
 - (b) the mesh net entitlement fixed by any such condition of a licence must, until the licence is transferred, be the number endorsed on the licence as the mesh net entitlement under the revoked regulations immediately before the commencement of these regulations subject to any subsequent variation made in accordance with paragraph (d);

- (c) if a person becomes the holder of a licence in respect of the fishery as a result of the transfer of the licence, the mesh net entitlement for that licence must be fixed at 25 subject to any subsequent variation made in accordance with paragraph (d);
 - (d) on application made to the Director by the holders of any 2 licences in respect of the fishery, the mesh net entitlement for 1 of the licences may be increased by 25, provided that—
 - (i) the other licence is first surrendered to the Director; and
 - (ii) if the mesh net entitlement as so increased would exceed 100, the entitlement is fixed at 100 only.
- (2) The Director may impose or vary conditions on licences in respect of the fishery fixing yabbie pot entitlements as follows:
 - (a) a yabbie pot entitlement may be fixed by condition of a licence but must not exceed 100;
 - (b) the yabbie pot entitlement fixed by any such condition of a licence must, until the licence is transferred, be the number endorsed on the licence as the yabbie pot entitlement under the revoked regulations immediately before the commencement of these regulations subject to any subsequent variation in accordance with paragraph (d);
 - (c) if a person becomes the holder of a licence in respect of the fishery as a result of the transfer of the licence, the yabbie pot entitlement for that licence must be fixed at 50 subject to any subsequent variation in accordance with paragraph (d);
 - (d) on application made to the Director by the holders of any 2 licences in respect of the fishery, the yabbie pot entitlement for 1 of the licences may be increased by the amount of the yabbie pot entitlement for the other licence, provided that—
 - (i) the other licence is first surrendered to the Director; and
 - (ii) if the yabbie pot entitlement as so increased would exceed 100, the entitlement is fixed at 100 only.
- (3) An application under subregulation (1)(d) or (2)(d) must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant.

14—Use of agents in fishing activities

- (1) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
 - (a) the holder of the licence or the registered master is at the same time also engaged on the shore in a fishing activity of a class that constitutes the fishery; and

- (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 700 metres of each other.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (2) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on a boat as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
 - (a) the holder of the licence or the registered master is at the same time also engaged on a registered boat in a fishing activity of a class that constitutes the fishery; and
 - (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 500 metres of each other.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (3) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on the shore as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (4) The holder of a licence in respect of the fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on a boat as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Maximum penalty: \$4 000.

Expiation fee: \$315.

15—Certain boats need not be registered

- (1) A boat used by a person as the agent of the holder of a licence in respect of the fishery in a fishing activity of a class that constitutes the fishery need not be registered if the boat is marked with the same distinguishing mark and in the same way as a boat registered by endorsement of the licence.
- (2) An unregistered boat that is marked as referred to in subregulation (1) need not be in the charge of a registered master.

16—Returns

- (1) The holder of a licence in respect of the fishery must—
 - (a) complete 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 Executive Director of SARDI, with the approval of 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 and deliver the return to the office of the Executive Director of SARDI within 15 days of the end of the month to which it relates.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (2) If the holder of a licence takes no fish pursuant to the licence during a particular calendar month, he or she is required by subregulation (1) to furnish a return in respect of that period indicating that no fish were taken.
- (3) The holder of a licence must—
- (a) make a copy of each return he or she completes under this regulation before the return is sent or delivered to the Executive Director of SARDI; and
- (b) retain a copy for the period of 1 year from the last day of the month to which the return relates.

Maximum penalty: \$4 000.

Schedule 1—Fish prescribed for Lakes and Coorong Fishery

Scalefish

Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Bluethroated wrasse (*Notolabrus tetricus*)

Bony bream (*Nematalosa erebi*)

Bream (*Acanthopagrus butcheri*)

Carp (all species) (Family Cyprinidae)

Catfish (*Tandanus tandanus*)

Cod (marine species) (Family Moridae)

Congolli (*Pseudaphritis urvilli*)

Dory (Family Zeidae)

Flathead (Family Platycephalidae)

Flounder (Family Pleuronectidae)

Garfish (*Hyporhamphus melanochir*)

Mullet (all species) (Family Mugilidae)

Mulloway (*Argyrosomus hololepidotus*)

Murray cod (*Maccullochella peeli*)

Nannygai, Red snapper, Swallowtail (Family Berycidae)

Perch, golden (callop) (*Macquaria ambigua*)

Perch, redfin (*Perca fluviatilis*)

Perch, silver (*Bidyanus bidyanus*)

Pilchard (*Sardinops neopilchardus*)

Salmon (*Arripis truttaceus*)
Snapper (*Chrysophrys auratus*)
Snook (*Sphyraena novaehollandiae*)
Sole (*Aserragodes haackeanus*)
Sweep (*Scorpis aequipinnis*)
Tommy ruff (*Arripis georgianus*)
Trevalla (*Hyperoglyphe antarctica*)
Trevally (*Usacaranx georgianus*)
Trout, brown (*Salmo trutta*)
Trout, rainbow (*Oncorhynchus mykiss*)
Whiting (Family Sillaginidae)

Crustaceans

Crabs (Family Portunidae)
Freshwater shrimp (*Macrobrachium australiensis*)
Yabbies (*Cherax destructor*)

Molluscs

Cockle (Suborder Teledonta)
Squid, arrow (*Nototodarus gouldi*)
Squid, calamary (*Sepioteuthis australis*)
Mussels (Family Hyriidae)
Mussels (*Mytilus* spp.)

Annelids

Bloodworm (Class Polychaeta)
Tubeworm (Class Polychaeta)

Sharks

All species other than white pointer shark (*Carcharodon carcharias*) (Class Elasmobranchii)
Skate (Class Elasmobranchii)
Rays (Class Elasmobranchii)

Schedule 2—Fees

1	On application for the renewal of a licence in respect of the fishery	\$6 591.00
2	On application for consent to the transfer of a licence in respect of the fishery	\$311.00

Schedule 3—Revocation of *Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 1991*

The *Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 1991* are revoked.

Fisheries (Scheme of Management—Lakes and Coorong Fishery) Regulations 2006
Schedule 3—Revocation of *Fisheries (Scheme of Management—Lakes and Coorong Fishery)*
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 24 August 2006

No 202 of 2006

MAFF06/006CS