

South Australia

Fisheries (Scheme of Management—Charter Boat Fishery) Variation Regulations 2007

under the *Fisheries Management Act 2007*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Charter Boat Fishery) Variation Regulations 2007*.

2—Commencement

These regulations will come into operation on the day on which Part 6 Division 1 of the *Fisheries Management Act 2007* comes into operation.

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—Charter Boat Fishery) Regulations 2005*

4—Variation of regulation 1—Short title

Regulation 1—delete "*Fisheries (Scheme of Management—Charter Boat Fishery) Regulations*" and substitute:

Fisheries Management (Charter Boat Fishery) Regulations

5—Variation of regulation 3—Interpretation

- (1) Regulation 3(1), definition of *Act*—delete the definition and substitute:

Act means the *Fisheries Management Act 2007*;

- (2) Regulation 3(1)—after the definition of *charter boat fishing services* insert:

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;

- (3) Regulation 3(1), definitions of *licence period*, *recreational fishing* and *SARDI*—delete the definitions

- (4) Regulation 3(2)—delete subregulation (2) and substitute:

- (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.

6—Substitution of regulations 5 to 13

Regulations 5 to 13 (inclusive)—delete the regulations and substitute:

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.

7—Variation of regulation 14—Periodic returns

- (1) Regulation 14(1)(b)—delete "Chief Executive Officer of SARDI, with the approval of the Minister," and substitute:

Minister

- (2) Regulation 14(1)(c)—delete "office of the Chief Executive Officer of SARDI" and substitute:

Minister

- (3) Regulation 14(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) Regulation 14(2)—delete subregulation (2) and substitute:

- (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.

8—Variation of regulation 15—Copies of periodic returns must be made and kept

- (1) Regulation 15(a)—delete "Chief Executive Officer of SARDI" and substitute:

Minister

- (2) Regulation 15, penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$5 000.

Expiation fee: \$315.

9—Revocation of regulation 16

Regulation 16—delete the regulation

10—Revocation of Schedule 1

Schedule 1—delete the Schedule

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 29 November 2007

No 280 of 2007

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