

South Australia

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

4—Variation of regulation 1—Short title

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

Fisheries Management (Lakes and Coorong Fishery) Regulations

5—Variation of regulation 3—Interpretation

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

Act means the *Fisheries Management Act 2007*;

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

Lakes and Coorong means the waters of the Coorong, Lake Alexandrina, Lake Albert, and the coastal waters adjacent to South Australia between the location on Mean High Water Springs closest to 35°31'23.50" South, 138°46'23.83" East (Beach Road, Goolwa) and the location on Mean High Water Springs closest to 36°49'34.59" South, 139°50'55.95" East (Kingston SE Jetty);

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;

- (3) Regulation 3(1), definition of *mesh net*—delete "*Fisheries (General) Regulations 2000*" and substitute:

Fisheries Management (General) Regulations 2007

- (4) Regulation 3(1), definition of *mesh net entitlement*—delete "fish pursuant to" and substitute:

aquatic resources under

- (5) Regulation 3(1), definitions of *revoked regulations*, *SARDI*, *yabby pot* and *yabby pot entitlement*—delete the definitions and substitute:

yabby pot has the same meaning as in the *Fisheries Management (General) Regulations 2007*, and includes a drop net and hoop net as defined in those regulations;

yabby pot entitlement means the maximum number of yabby pots that the holder of a licence in respect of the fishery may lawfully use at any 1 time to take aquatic resources under the licence.

- (6) Regulation 3(2)—delete "fish" wherever occurring and substitute in each case:

aquatic resources

- (7) Regulation 3—after subregulation (2) insert:

Notes—

- 1 Common and scientific fish names are given according to *AS: SSA-001 Australian Fish Names Standard* published by Seafood Services Australia in July 2007, as amended from time to time.
- 2 Unless the contrary intention appears, 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 co-ordinates are expressed in terms of GDA94.

6—Variation of regulation 4—Constitution of fishery

- (1) Regulation 4(2)(a)—delete "fish" and substitute:
aquatic resources
- (2) Regulation 4(2)(b)—delete "razor fish" and substitute:
Razorfish

7—Substitution of regulations 5 to 13

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

5—Maximum number of licences that may be in force

The maximum number of licences that may be in force in respect of the fishery is the number of licences in force in respect of the fishery immediately before the commencement of this regulation.

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 16 completed by the holder of the licence up to 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) that the transferee is a natural person of at least 15 years of age and is a fit and proper person to hold a licence in respect of the fishery;

- (e) if a boat registered for use under the licence is the subject of, or 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

- (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) A person other than the holder of a licence in respect of the fishery cannot be registered as a master of a boat used under the licence unless the holder of the licence is already registered as the master of a registered boat used under a fishery licence.

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 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.

9—Mesh net and yabby pot entitlements

- (1) The Minister 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) if a person becomes the holder of a licence as a result of the transfer of the licence, the mesh net entitlement under that licence will be fixed at 25 subject to any subsequent variation under paragraph (c);
 - (c) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery, the mesh net entitlement under 1 of the licences may be increased by 25, provided that—
 - (i) the other licence is first surrendered to the Minister; and
 - (ii) if the entitlement as so increased would exceed 100, the entitlement is fixed at 100 only.
- (2) The Minister may impose or vary conditions on licences in respect of the fishery fixing yabby pot entitlements as follows:
 - (a) a yabby pot entitlement may be fixed by condition of a licence but must not exceed 100;
 - (b) if a person becomes the holder of a licence as a result of the transfer of the licence, the yabby pot entitlement under that licence will be fixed at 50 subject to any subsequent variation under paragraph (c);
 - (c) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery, a yabby pot entitlement under 1 of the licences may be increased by a number equal to the yabby pot entitlement under the other licence, provided that—
 - (i) the other licence is first surrendered to the Minister; and
 - (ii) if the entitlement as so increased would exceed 100, the entitlement is fixed at 100 only.
- (3) An application to vary a mesh net or yabby pot entitlement must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and be completed in accordance with the instructions contained in the form.

8—Variation of regulation 14—Use of agents in fishing activities

- (1) Regulation 14—delete "boat registered by endorsement of" wherever occurring and substitute in each case:
registered boat used under
- (2) Regulation 14—delete "\$4 000" wherever occurring and substitute in each case:
\$5 000

9—Variation of regulation 15—Certain boats need not be registered

Regulation 15(1)—delete "boat registered by endorsement of the licence" and substitute:
registered boat

10—Variation of regulation 16—Periodic returns

- (1) Regulation 16(1)(b)—delete "Executive Director of SARDI, with the approval of the Minister," and substitute:
Minister
- (2) Regulation 16(1)(c)—delete "office of the Executive Director of SARDI" and substitute:
Minister
- (3) Regulation 16(1), penalty provision—delete "\$4 000" and substitute:
\$5 000
- (4) Regulation 16(2)—delete "fish" wherever occurring and substitute in each case:
aquatic resources
- (5) Regulation 16(2)—delete "pursuant to" and substitute:
under
- (6) Regulation 16(3)(a)—delete "Executive Director of SARDI" and substitute:
Minister
- (7) Regulation 16(3), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$5 000.
Expiation fee: \$315.

11—Substitution of Schedules 1 to 3

Schedules 1 to 3 (inclusive)—delete the Schedules and substitute:

Schedule 1—Aquatic resources prescribed for Lakes and Coorong Fishery

Annelids

Bloodworm (Class Polychaeta)

Tubeworm (Class Polychaeta)

Crustaceans

Crab of all species (Family Portunidae)
Freshwater Prawn (*Macrobrachium australiensis*)
Yabby (*Cherax* spp)

Molluscs

Southern Calamari (*Sepioteuthis australis*)
Cockle (*Anadara* & *Katelysia* spp)
Mussels (*Mytilus* spp)
Freshwater Mussels (Family Hyriidae)
Pipi (*Donax* spp)
Gould's Squid (*Nototodarus gouldii*)

Scalefish

Australian Anchovy (*Engraulis australis*)
Barracouta (*Thyrsites atun*)
Black Bream (*Acanthopagrus butcheri*)
Bony Bream (*Nematalosa erebi*)
Carp of all species (Family Cyprinidae)
Cod of all marine species (Family Moridae)
Congolli (*Pseudaphritis urvilli*)
Dory of all species (Family Zeidae)
Flathead (*Platycephalus* spp)
Flounder of all species (Family Bothidae or Pleuronectidae)
Garfish (*Hyporhamphus melanochir*)
Australian Herring (*Arripis georgianus*)
Mullet of all species (Family Mugilidae)
Mulloway (*Argyrosomus hololepidotus*)
Murray Cod (*Maccullochella peelii*)
Golden Perch (*Macquaria ambigua*)
Redfin (*Perca fluviatilis*)
Bight Redfish (*Centroberyx gerrardi*)
Redfish (*Centroberyx affinis*)
Western Australian Salmon (*Arripis truttaceus*)
Australian Sardine (*Sardinops sagax*)
Snapper (*Pagrus auratus*)
Snook (*Sphyraena novaehollandiae*)
Southern Sole (*Aserragodes haackeanus*)
Swallowtail (*Centroberyx lineatus*)
Sea Sweep (*Scorpis aequipinnis*)

Blue-eye Trevalla (*Hyperoglyphe antarctica*)

Trevally (*Caranginae* spp)

Brown Trout (*Salmo trutta*)

Rainbow Trout (*Oncorhynchus mykiss*)

Whiting of all species (Family Sillaginidae)

Bluethroat Wrasse (*Notolabrus tetricus*)

Shark

Rays of all species (Class Elasmobranchii)

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

Skate of all species (Class Elasmobranchii)

Schedule 2—Transitional provisions

1—Eligibility to be granted fishery licence

Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the fishery, may make an application under section 54 of the Act for a licence in respect of the fishery.

2—Mesh net and yabby pot entitlements

- (1) A mesh net entitlement fixed under regulation 9(1)(a) by condition of a licence in respect of the fishery must, until the licence is transferred, be the number of mesh nets registered for use under the licence immediately before the commencement of that regulation (subject to any subsequent variation under regulation 9(1)(c)).
- (2) A yabby pot entitlement fixed under regulation 9(2)(a) by condition of a licence in respect of the fishery must, until the licence is transferred, be the number of yabby pots registered for use under the licence immediately before the commencement of that regulation (subject to any subsequent variation under regulation 9(2)(c)).

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

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