

South Australia

Fisheries (Scheme of Management—Prawn Fisheries) 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—Prawn Fisheries) 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—Prawn Fisheries) Regulations 2006*

4—Variation of regulation 1—Short title

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

Fisheries Management (Prawn Fisheries) Regulations

5—Variation of regulation 3—Interpretation

- (1) Regulation 3(1), definitions of *Act* and *continuous brake power rating*—delete the definitions and substitute:

Act means the *Fisheries Management Act 2007*;

- (2) Regulation 3(1), definitions of *fishing period*, *Gulf St. Vincent* and *licence period*—delete the definitions and substitute:

Gulf St. Vincent means the waters of Gulf St. Vincent, Investigator Strait and Backstairs Passage contained within and bounded by a line commencing at Mean High Water Springs closest to 35°13'26.90" South, 137°00'00.00" East, then beginning easterly following the line of Mean High Water Springs to the location closest to 35°39'37.06" South, 138°3'38.09" East (Porpoise Head), then south-westerly to the location on Mean High Water Springs closest to 35°48'06.93" South, 138°07'29.06" East (Cape St Albans, Kangaroo Island), then beginning south-westerly following the line of Mean High Water Springs to the location closest to 35°40'20.07" South, 137°0'00.00" East, then northerly to the point of commencement;

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 *prawn*—delete the definition and substitute:

prawn means King Prawn (*Merlicertus latisulcatus*);

- (4) Regulation 3(1), definitions of *revoked regulations*, *SARDI* and *Spencer Gulf*—delete the definitions and substitute:

Spencer Gulf means the waters of Spencer Gulf north of the geodesic from the location on Mean High Water Springs closest to 34°9'07.15" South, 136°00'11.06" East (Cape Catastrophe, Eyre Peninsula) to the location on Mean High Water Springs closest to 35°7'59.60" South, 136°52'50.11" East (Cape Spencer, Yorke Peninsula);

- (5) Regulation 3(1), definition of *West Coast waters*—delete the definition and substitute:

West Coast waters means the waters adjacent to South Australia contained within the meridians of longitude 131° East and 137° East, but does not include the waters of Spencer Gulf north of the geodesic from the location on Mean High Water Springs closest to 34°59'07.15" South, 136°00'11.06" East (Cape Catastrophe, Eyre Peninsula) to the location on Mean High Water Springs closest to 35°17'59.60" South, 136°52'50.11" East (Cape Spencer, Yorke Peninsula);

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

aquatic resources

- (7) Regulation 3—after subregulation (3) 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 fisheries

Regulation 4—delete "fish" wherever occurring and substitute in each case:

aquatic resources

7—Substitution of regulations 5 to 12

Regulations 5 to 12 (inclusive)—delete the regulations and substitute:

5—Maximum number of licences that may be in force

- (1) The maximum number of licences that may be in force in respect of the Gulf St. Vincent Prawn Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (2) The maximum number of licences that may be in force in respect of the Spencer Gulf Prawn Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.
- (3) The maximum number of licences that may be in force in respect of the West Coast Prawn Fishery is the number of licences in force in respect of that fishery immediately before the commencement of this regulation.

6—Transfer of licence

- (1) Licences in respect of a prawn 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 13 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) that the transfer is to 1 person only;
 - (e) 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 a prawn fishery;
 - (f) if the transferee is a company, that each director of the company is a fit and proper person to be a director of a company that holds a licence in respect of a prawn fishery;
 - (g) if a registered boat used 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 fish 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 a prawn 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 a prawn fishery if satisfied that—
 - (a) the overall length of the boat does not exceed 22 metres; and
 - (b) the continuous brake power rating of the main engine of the boat does not exceed 272 kilowatts; and
 - (c) no other boat is registered for use under the licence.

8—Revocation of registration

- (1) The Minister may, on application by the holder of a licence in respect of a prawn 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.

8—Variation of regulation 13—Periodic returns

- (1) Regulation 13(1)(b)—delete "Executive Director of SARDI, with the approval of the Minister," and substitute:

Minister
- (2) Regulation 13(1)(c)—delete "office of the Executive Director of SARDI" and substitute:

Minister
- (3) Regulation 13(1), penalty provision—delete "\$4 000" and substitute:

\$5 000
- (4) Regulation 13(2)—delete "fish" wherever occurring and substitute in each case:

aquatic resources

- (5) Regulation 13(2)—delete "pursuant to" and substitute:
under
- (6) Regulation 13(3)(a)—delete "Executive Director of SARDI" and substitute:
Minister
- (7) Regulation 13(3), penalty provision—delete the penalty provision and substitute:
Maximum penalty: \$5 000.
Expiation fee: \$315.

9—Substitution of Schedules 1 to 3

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

Schedule 1—Aquatic resources prescribed for prawn fisheries

Part 1—Aquatic resources prescribed for Gulf St. Vincent & Spencer Gulf Prawn Fisheries

Crustaceans

Bug (*Ibacus* spp)

Molluscs

Southern Calamari (*Sepioteuthis australis*)

Part 2—Aquatic resources prescribed for West Coast Prawn Fishery

Crustaceans

Bug (*Ibacus* spp)

Molluscs

Southern Calamari (*Sepioteuthis australis*)

Octopus (*Octopus* spp)

Scallop (Family Pectinidae)

Gould's Squid (*Nototodarus gouldii*)

Schedule 2—Transitional provisions

1—Eligibility to be granted fishery licence

- (1) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Gulf St. Vincent Prawn Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

- (2) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Spencer Gulf Prawn Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.
- (3) Only a person who is, immediately before 30 June 2008, the holder of a licence in respect of the Western Coast Prawn Fishery, may make an application under section 54 of the Act for a licence in respect of that fishery.

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 284 of 2007

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