

South Australia

Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013

under the *Fisheries Management Act 2007*

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1—Short title

These regulations may be cited as the *Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013*.

2—Commencement

These regulations will come into operation 4 months after the day on which they are made (see *Subordinate Legislation Act 1978* section 10AA).

3—Interpretation

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

Act means the *Fisheries Management Act 2007*;

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;
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- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

fishery means the Miscellaneous Developmental Fishery constituted by these regulations;

prescribed fishery regulations means any of the following regulations:

- (a) the *Fisheries Management (Abalone Fisheries) Regulations 2006*;
- (b) the *Fisheries Management (Blue Crab Fishery) Regulations 1998*;
- (c) the *Fisheries Management (Charter Boat Fishery) Regulations 2005*;
- (d) the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;
- (e) the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*;
- (f) the *Fisheries Management (Prawn Fisheries) Regulations 2006*;
- (g) the *Fisheries Management (River Fishery) Regulations 2006*;
- (h) the *Fisheries Management (Rock Lobster Fisheries) Regulations 2006*;

waters of the State means all the waters to which the Act applies.

- (2) In these regulations, unless the contrary intention appears, **company**, **director**, **proprietary company** and **public company** have the same respective meanings as in the Corporations Act.
- (3) In these regulations, 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.

4—Constitution of fishery

- (1) The Miscellaneous Developmental Fishery is constituted.
- (2) The Miscellaneous Developmental Fishery consists of the taking of aquatic resources in the waters of the State but does not include a fishing activity of a class constituted as a fishery by prescribed fishery regulations.
- (3) The Miscellaneous Developmental Fishery is declared to be a developmental fishery for the purposes of the Act.

5—Issue of permits

- (1) The Minister may issue permits in respect of the fishery.
- (2) Permits in respect of the fishery will be of the following classes:
 - (a) exploratory permits;
 - (b) developmental permits.
- (3) The Minister may only grant an exploratory permit in respect of the fishery if satisfied that the applicant is a natural person of at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery.
- (4) The Minister may only grant a developmental permit in respect of the fishery if satisfied as to the following:
 - (a) if the applicant is a natural person—that the person is at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery;

- (b) if the applicant 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 permit in respect of the fishery.

6—Power of Minister to limit fishing activities

The Minister may impose conditions on a permit in respect of the fishery limiting the class of fishing activities that may be engaged in under the permit.

7—Registration

An application by the holder of a permit in respect of the fishery—

- (a) to register a boat or device for use under the permit; or
- (b) to register a person as a master of a boat that may be used under the permit,

must be accompanied by the documents specified in the application form.

8—Revocation of registration

- (1) The Minister may, on application by the holder of a permit in respect of the fishery, revoke the registration of—
 - (a) a boat or device used under the permit; or
 - (b) a person as a master of a boat that may be used under the permit.
- (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—Transfer of permits

- (1) Exploratory permits are not transferable.
- (2) Developmental permits are transferable.
- (3) An application for consent to the transfer of a developmental permit must be accompanied by—
 - (a) the permit to be transferred; and
 - (b) a form of return as required by regulation 10 completed by the holder of the permit 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.
- (4) The Minister may only consent to the transfer of a developmental permit if satisfied as to the following:
 - (a) that any fees or other amounts payable in relation to the permit under the Act have been paid in full;
 - (b) that the permit 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 permit;
- (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 permit in respect of the fishery;
- (e) 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 permit in respect of the fishery.

10—Periodic returns

The holder of a permit in respect of the fishery must, on a date or dates determined by the Minister in each year, provide the Minister with a periodic return containing such information as the Minister requires in the manner and form determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$315.

11—Copies of periodic returns to be made and kept

The holder of a permit in respect of the fishery must—

- (a) make a copy of each return that he or she fills out pursuant to these regulations before the return is sent or delivered to the Minister; and
- (b) retain the copy for the period of 12 months from the last day of the month to which the return relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

Made by the Governor's Deputy

with the advice and consent of the Executive Council
on 1 August 2013

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