

REGULATIONS UNDER THE FISHERIES ACT 1982

Fisheries (Fish Processors) Regulations 1991

being

No. 109 of 1991: *Gaz.* 27 June 1991, p. 2172¹

as varied by

No. 64 of 1992: *Gaz.* 28 May 1992, p. 1570²

No. 111 of 1992: *Gaz.* 25 June 1992, p. 1940³

No. 87 of 1993: *Gaz.* 13 May 1993, p. 1648⁴

No. 164 of 1994: *Gaz.* 29 September 1994, p. 877⁵

No. 111 of 1995: *Gaz.* 25 May 1995, p. 2495⁶

¹ Came into operation 27 June 1991: reg. 2.

² Came into operation 28 May 1992: reg. 2.

³ Came into operation 25 June 1992: reg. 2.

⁴ Came into operation 13 May 1993: reg. 2.

⁵ Came into operation (except reg. 7) 29 September 1994: reg. 2(1); reg. 7 came into operation 1 October 1994: reg. 2(2).

⁶ Came into operation 25 May 1995: reg. 2.

N.B. The following regulations have been disallowed:

No. 28 of 1994: *Gaz.* 19 May 1994, p. 1240 see *Gaz.* 20 October 1994, p. 1227.

Citation

1. These regulations may be cited as the *Fisheries (Fish Processors) Regulations 1991*.

Commencement

2. These regulations will come into operation on 27 June 1991.

Revocation

3. The *Fisheries (Fish Processors) Regulations 1984* (see *Gazette* 28 June 1984 p. 1945), as varied, are revoked.

Interpretation

4. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Fisheries Act 1982*;

"**registration period**" means—

- (a) the period of 13 months commencing on 1 June 1995; or
- (b) a period of 12 months commencing on 1 July in any subsequent year;

"**SARDI**" means the South Australian Research and Development Institute;

"**size limit**" in relation to fish of a particular class or species, means the limit fixed by Part 7 of the *Fisheries (General) Regulations 1984*, according to which fish of that class or species are determined to be or not to be undersize fish;

"**undersize fish**" means fish that are undersize as defined in regulation 21 of the *Fisheries (General) Regulations 1984*.

Note: For definition of divisional penalties see Appendix 2.

Registration as a fish processor (s. 54 of the Act)

5. (1) For the purposes of section 54 of the Act, an application for registration or renewal of registration as a fish processor must be made to the Director on a form approved by the Director, completed and signed by the applicant in accordance with the instructions contained in the form.

(2) The Director must not grant an application for registration or renewal of registration as a fish processor unless the applicant has paid—

- (a) —
 - (i) the registration fee as specified in the schedule;
- or
- (ii) the first instalment of the registration fee, in accordance with subregulation (3) or (4);

3.

and

(b) the amount of any previous registration fee remaining payable by the applicant.

(3) Where an application for registration is made before the commencement of the registration period in respect of which the application is made, the registration fee may be paid in four instalments of 25 per cent payable on or before that commencement and 1 October, 1 January and 1 April following the date of registration.

(4) Where an application for renewal of registration is made before the expiry of the registration, the registration fee may be paid in four instalments of 25 per cent payable on or before the date of renewal and 1 October, 1 January and 1 April following the date of renewal.

(5) Where an instalment of a registration fee is not paid in full on or before the due date, the amount unpaid may be recovered from the holder or former holder of the registration as a debt due to the Crown.

Refund on surrender of registration

5a. Where the holder of registration as a fish processor surrenders the registration, the Director must, on application by the former holder, refund an amount that bears to the registration fee last paid the same proportion as the number of complete months from the date of surrender to the following 1 July bears to the number of months in the registration period.

Registration of additional premises, etc. (s. 54 of the Act)

6. (1) Where a registered fish processor proposes to use for or in connection with processing, storing or dealing with fish any premises, place, boat or vehicle that is not specified in his or her certificate of registration, he or she must lodge with the Director an application to have the additional premises, place, boat or vehicle so specified.

(2) An application under subregulation (1) must—

(a) be made on a form approved by the Director, completed and signed by the applicant in accordance with the instructions contained in the form;

and

(b) be accompanied by the fee set out in item 2 of the schedule in respect of the application.

Persons not required to be registered as fish processors (s. 54 of the Act)

7. Pursuant to section 54 of the Act, the following persons are not required to be registered as fish processors:

(a) a person who only processes fish obtained from a registered fish processor;

(b) a person who—

(i) is the holder of a fishery licence;

4.

or

(ii) is registered to conduct a fish farming operation,

and who only processes fish taken pursuant to that licence or fish farming operation for sale to a registered fish processor or directly to persons who consume such fish.

Written records to be kept

8. (1) A fish processor must keep a separate written record for each of the premises, places, boats or vehicles used by the fish processor for, or in connection with, the storage, processing or transport of fish containing the following information in relation to each consignment or batch of fish received for storage, processing or transport at or by the premises, place, boat or vehicle:

- (a) the name and address of the person from whom the fish were purchased or obtained;
- (b) if the person from whom the fish were purchased or obtained is the holder of a fishery licence—the number of the fishery licence;
- (c) the date on which the fish were purchased or obtained;
- (d) the species of the fish and, for each species, the quantity of and price (if any) paid for the fish;

and

- (e) where any of the fish are undersize, the species of the fish and, for each species, the quantity of the fish.

(2) The information required under subregulation (1) must be entered—

- (a) immediately after the fish were purchased or obtained in a book or register the pages of which are numbered consecutively;
- (b) in the order in which the transactions to which the information relates occurred;

and

- (c) so that each entry is made immediately below the previous entry and each page of the book or register is filled before an entry is made on the next page.

(3) The records made in accordance with this regulation must be kept—

- (a) for 12 months after the fish to which they relate were purchased or obtained by the processor;

and

- (b) at or in the premises, place, boat or vehicle to which they relate, or, if the Director specifies some other place for that purpose in the processor's certificate of registration, that place.

5.

(4) A person who contravenes or fails to comply with this regulation is guilty of an offence.

Penalty: Division 7 fine.

(5) The holder of a fishery licence or a person registered to conduct a fish farming operation is not required to comply with this regulation in relation to fish taken pursuant to that licence or fish farming operation.

Returns to be lodged with CEO of SARDI

9. (1) A registered fish processor must lodge with the Chief Executive Officer of SARDI within 21 days of the end of each month returns in respect of the sale, purchase, processing, storage and movement of fish carried out during the month.

(2) The returns must—

- (a) be in a form approved by the Minister and completed in accordance with the instructions contained in the form;
- (b) be signed by or on behalf of the registered fish processor;
- (c) contain such information relating to the sale, purchase, processing, storage and movement of fish carried out during the month as the Chief Executive Officer of SARDI, with the approval of the Minister, requires.

(3) The holder of a fishery licence or a person registered to conduct a fish farming operation is only required to comply with this regulation in relation to fish sold or delivered to an unregistered fish processor.

(4) A person who contravenes or fails to comply with this regulation is guilty of an offence.

Penalty: Division 7 fine.

Duty of fish processor to check for undersize fish

10. (1) A registered fish processor must, as soon as possible after a consignment of fish is delivered to the processor, take all reasonable steps to check for the presence of undersize fish in the consignment.

Penalty: Division 7 fine.

(2) Where a registered fish processor finds undersize fish in a consignment, he or she must immediately render the undersize fish unsuitable for sale or consumption and dispose of them as waste material.

(3) Where, in proceedings for an offence against subregulation (1), it is proved that undersize fish were found in the possession of a registered fish processor the registered fish processor will be taken, in the absence of proof to the contrary, to have failed to comply with subregulation (1).

Procedure to be followed where registered fish processor obtains fish from unlicensed person

11. (1) Where a registered fish processor obtains fish that were not taken pursuant to a fishery licence or in the course of the operation of a registered fish farm, he or she must—

- (a) place the fish in a container in which no other fish are stored;
- (b) immediately after placing the fish in the container—
 - (i) mark on the container or on a label affixed or attached to the container—
 - (A) the name and address of the person from whom the fish were obtained;and
 - (B) where the fish were taken in the course of recreational fishing or in the course of the operation of a registered fish farm, "Rec" or "FF", as the case may require;
 - (ii) keep a written record of the following information:
 - (A) the species of each fish in the container;
 - (B) the quantity of each such species;
 - (C) the date on which the fish were received;
 - (D) the date on which the fish were placed in the container;and
 - (E) the name and address of the person from whom the fish were obtained;
- (c) keep the container in which the fish are stored marked in accordance with paragraph (b)(i) throughout the period during which those fish are stored in that container.

(2) Where a registered fish processor ceases to store fish in accordance with subregulation (1), he or she must immediately make a written record of the following information:

- (a) the date on which he or she ceased to store them;
- and
- (b) the name and address of the person to whom the fish were delivered.

(3) A registered fish processor must keep any records made pursuant to this regulation for six months after he or she has ceased to store the fish to which the records relate.

7.

(4) A person who contravenes or fails to comply with this regulation is guilty of an offence.

Penalty: Division 7 fine.

Delivery of tuna to registered fish processor

12. (1) In this regulation—

"**Australian Fisheries Management Authority**" means the body of that name constituted by the *Fisheries Administration Act 1991* of the Commonwealth as amended from time to time;

"**form CR3**" means the yellow copy of a document produced by the Australian Fisheries Management Authority entitled *CR3—Record of Southern Bluefin Tuna (SBT) Taken* properly completed by the person who took the tuna;

"**tuna**" means southern bluefin tuna (*Thunnus maccoyii*).

(2) A registered fish processor must not purchase or obtain tuna for processing from a boat authorised to take tuna unless a form CR3 in respect of all of the tuna from the boat is delivered together with the tuna.

(3) On receiving a form CR3 in accordance with subregulation (2), the registered fish processor must—

(a) immediately complete the certificate contained in the form;

and

(b) on or before the Monday next following after the day on which delivery of the tuna to which the form relates was taken, deliver, or cause to be delivered, the completed form to the Director or the Australian Fisheries Management Authority.

(4) A person who contravenes or fails to comply with this regulation is guilty of an offence.

Penalty: Division 7 fine.

Delivery of abalone to registered fish processor

13. (1) In this regulation—

"**abalone**" means abalone (*Haliotis* spp.) of all species;

"**form CDR1**" means the document produced by the South Australian Department of Primary Industries entitled *CDR1 Department of Primary Industries (Fisheries) Abalone Catch and Disposal Record* properly completed by the person who took the abalone.

(2) A registered fish processor must not purchase or obtain abalone from—

(a) the holder of a fishery licence that entitles the holder of the licence to take abalone;

8.

or

(b) the agent of such a licence holder,

unless a form CDR1 in respect of the abalone is delivered with the abalone.

(3) Where a registered fish processor has taken delivery of the abalone and the form CDR1, he or she must—

(a) immediately weigh the abalone;

(b) immediately complete the certificate contained in Part B of the form;

and

(c) within seven days of taking delivery of the abalone to which the form relates, deliver, or cause to be delivered, the completed form to the Director.

(4) A person who contravenes or fails to comply with this regulation is guilty of an offence.

Penalty: Division 7 fine.

Delivery, storage and sale of rock lobster

14. (1) In this regulation—

"**form SZRL2**" means the document produced by the South Australian Department of Primary Industries entitled *SZRL2 Primary Industries (S.A.)—Fisheries Rock Lobster Purchase Record*;

"**form SZRL3**" means the document produced by the South Australian Department of Primary Industries entitled *SZRL3 Primary Industries (S.A.)—Fisheries Rock Lobster Sales, Storage, and Transfer Record*;

"**rock lobster**" means rock lobster (*Jasus edwardsii*);

"**Southern Zone**" and "**Southern Zone Rock Lobster Fishery**" have the same meanings as in the *Scheme of Management (Rock Lobster Fisheries) Regulations 1991*.

(2) A registered fish processor who purchases or obtains rock lobster from—

(a) the holder of a licence in respect of the Southern Zone Rock Lobster Fishery;

(b) the agent of the holder of such a licence;

or

9.

- (c) another registered fish processor who purchased or obtained the rock lobster from a person referred to in paragraph (a) or (b),

must—

- (d) on taking delivery of the rock lobster, immediately weigh the rock lobster and complete a form SZRL2 in respect of the rock lobster;

and

- (e) within 24 hours of taking delivery of the rock lobster to which the form relates, deliver, or cause to be delivered, the completed form to the Director.

(3) A registered fish processor who—

- (a) sells rock lobster to any person;

or

- (b) transfers any rock lobster stored by the processor to a different place, premises, boat or vehicle for storage at that place, premises, boat or vehicle,

must—

- (c) immediately weigh the rock lobster and complete a form SZRL3 in respect of the rock lobster;

and

- (d) within 24 hours of the sale or transfer of the rock lobster to which the form relates, deliver, or cause to be delivered, the completed form to the Director.

(4) Subregulation (3) applies only in relation to rock lobster purchased or obtained by a registered fish processor from a person referred to in subregulation (2).

(5) A person who contravenes or fails to comply with this regulation is guilty of an offence.

Penalty: Division 7 fine.

SCHEDULE

Fees

1. (1) For registration or renewal of registration as a fish processor (reg. 5)—

- (a) where the fish processor is the holder of a fishery licence or a person registered to conduct a fish farming operation and registration is only required to authorise the processing of fish taken pursuant to that licence or fish farming operation for sale to an unregistered fish processor \$100
- (b) in any other case \$550

(2) If the applicant proposes to process any of the following species of fish pursuant to the registration, an additional fee of \$750 is payable in respect of each such species:

- abalone (*Haliotis* spp.) of all species
- western king prawn (*Penaeus latisulcatus*)
- southern rock lobster (*Jasus edwardsii*).

(3) Where registration is to be granted or renewed for a term of less than the registration period, the fee is a proportion of the fee set out above, being the proportion that the number of complete months in the term of registration bears to the number of months in the registration period.

2. Fee for processing an application to have premises, places, boats or vehicles specified in certificate of registration (reg. 6) \$15

APPENDIX 1**LEGISLATIVE HISTORY**

Regulation 4:	definition of "SARDI" inserted by 164, 1994, reg. 3 definition of "registration period" inserted by 111, 1995, reg. 3
Regulation 5:	substituted by 111, 1995, reg. 4
Regulation 5a:	inserted by 111, 1992, reg. 3; varied by 111, 1995, reg. 5
Regulation 7:	substituted by 111, 1995, reg. 6
Regulation 8(1):	varied by 111, 1995, reg. 7(a), (b)
Regulation 8(5):	inserted by 111, 1995, reg. 7(c)
Regulation 9(1):	varied by 111, 1992, reg. 4(a); 164, 1994, reg. 4(a)
Regulation 9(2):	varied by 111, 1992, reg. 4(b); 164, 1994, reg. 4(b)
Regulation 9(3):	substituted by 111, 1995, reg. 8
Regulation 12:	substituted by 164, 1994, reg. 5
Regulation 13:	definition of "form CDR1" substituted by 164, 1994, reg. 6
Regulation 14:	inserted by 164, 1994, reg. 7
Schedule:	varied by 64, 1992, reg. 3; 87, 1993, reg. 3; substituted by 111, 1995, reg. 9

APPENDIX 2**DIVISIONAL PENALTIES**

At the date of publication of this reprint divisional penalties are, as provided by section 28a of the *Acts Interpretation Act, 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	-	\$500
10	-	\$200
11	-	\$100
12	-	\$50

Note: This appendix is provided for convenience of reference only.