

As in force at 1 January 2003.

South Australia

FISHERIES (FISH PROCESSORS) REGULATIONS 1991

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
No. 130 of 1998: *Gaz.* 11 June 1998, p. 2517⁷
No. 137 of 2001: *Gaz.* 28 June 2001, p. 2438⁸
No. 46 of 2002: *Gaz.* 14 June 2002, p. 2151⁹
No. 227 of 2002: *Gaz.* 12 December 2002, p. 4609¹⁰

- 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.
⁷ Came into operation 11 June 1998: reg. 2.
⁸ Came into operation (except reg. 6) 28 June 2001: reg. 2(1); reg. 6 came into operation 1 July 2001: reg. 2(2).
⁹ Came into operation 14 June 2002: reg. 2.
¹⁰ **Came into operation 1 January 2003: reg. 2.**

N.B. The amendments effected to these regulations by Regulation No. 141 of 2003 have not come into operation.

N.B. The following regulations have been disallowed:

No. 28 of 1994: *Gaz.* 19 May 1994, p. 1240 disallowed on 12 October 1994 see *Gaz.* 20 October 1994, p. 1227.

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last consolidation.
- For the legislative history of the regulations see Appendix 1.

SUMMARY OF PROVISIONS

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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*;

"**Department**" means the Department of Primary Industries and Resources;

"**eligible applicant**", in relation to an application for registration or renewal of registration as a fish processor under section 54 of the Act, means the holder of a fishery licence or a person registered under the Act to conduct a fish farming operation who applies for registration as a fish processor for the sole purpose of processing fish taken pursuant to that licence or fish farming operation for sale to a person who—

- (a) is an unregistered fish processor; and
- (b) carries on a business in the course of which fish is sold, or fish is supplied as a meal or part of a meal, directly to the public;

"**registration period**" means the period of 12 months commencing on 1 July in any year;

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

"**undersize fish**" has the same meaning as in the *Fisheries (General) Regulations 2000*.

Note: For definition of divisional penalties (and divisional expiation fees) 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); and

5.

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

(3) Where—

(a) an application for registration is made before the commencement of the registration period in respect of which the application is made; and

(b) the applicant is not an eligible applicant,

the registration fee may be paid in four equal instalments payable on or before that commencement and 1 October, 1 January and 1 April following the date of registration.

(4) Where—

(a) an application for renewal of registration is made before the expiry of the registration; and

(b) the applicant is not an eligible applicant,

the registration fee may be paid in four equal instalments 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;

6.

(b) a person who—

- (i) is the holder of a fishery licence; 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; and
- (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; and
- (c) the date on which the fish were purchased or obtained; and
- (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; and
- (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.

(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 Executive Director of SARDI

9. (1) A registered fish processor must lodge with the Executive Director 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 Executive Director 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; and

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- (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; and
 - (B) the quantity of each such species; and
 - (C) the date on which the fish were received; and
 - (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; and
- (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.

(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 Department entitled *CDR1 Department of Primary Industries (Fisheries) Abalone Catch and Disposal Record* properly completed by the person who took the abalone;

"**meat**", in relation to an abalone, means all the muscular foot from which the viscera have been detached by the usual shucking procedure;

"**Western Zone Abalone Fishery**" has the same meaning as in the *Scheme of Management (Abalone Fisheries) Regulations 1991*;

"**whole**", in relation to an abalone, means the whole of the abalone including the meat, viscera and shell.

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

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- (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.

(3a) If whole abalone purchased or obtained by a registered fish processor from the holder of a licence in respect of the Western Zone Abalone Fishery or the agent of such a licence holder is to be sold without the shell, the registered fish processor must—

- (a) shuck the abalone within 12 hours of taking delivery of the abalone and the form CDR1; and
- (b) within 6 hours of shucking the abalone, weigh the shucked abalone meat and record the weight on the form.

(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 Department entitled *SZRL2 Primary Industries (S.A.)—Fisheries Rock Lobster Purchase Record*;

"**form SZRL3**" means the document produced by the Department 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; or
- (b) the agent of the holder of such a licence; or
- (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.

Delivery of blue crab to registered fish processor

15. (1) In this regulation—

"**blue crab**" means blue crab (*Portunus pelagicus*);

"**Blue Crab Fishery**" has the same meaning as in the *Scheme of Management (Blue Crab Fishery) Regulations 1998*;

"**blue crab quota**" has the same meaning as in regulation 14B of the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991*;

"**form BSCF1**" means the document produced by the Department entitled *BSCF1 Primary Industries (S.A.) Fisheries Blue Crab Catch and Disposal Record* properly completed by the person who took the blue crab;

"**Marine Scalefish Fishery**" has the same meaning as in the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991*.

(2) A registered fish processor who purchases or obtains blue crab from—

- (a) the holder of a licence in respect of the Blue Crab Fishery; or
- (b) the holder of a licence in respect of the Marine Scalefish Fishery that is endorsed with a condition fixing a blue crab quota on the licence; or
- (c) the agent of the holder of a licence referred to in paragraph (a) or (b),

must—

- (d) on taking delivery of the blue crab—
 - (i) immediately weigh the blue crab; and

- (ii) immediately complete the certificate contained in Part B of a form BSCF1 in respect of the blue crab; and
- (e) within 24 hours of taking delivery of the blue crab to which the form relates, deliver, or cause to be delivered, the completed form to the Director.

Penalty: Division 7 fine.

Delivery of giant crab to registered fish processor

16. (1) In this regulation—

"**form GCCDR**" means the document produced by the Department entitled *GCCDR Primary Industries (S.A.) Fisheries Giant Crab Catch and Disposal Record* properly completed by the person who took the giant crab;

"**giant crab**" means giant crab (*Pseudocarcinus gigas*);

"**Miscellaneous Fishery**" has the same meaning as in the *Scheme of Management (Miscellaneous Fishery) Regulations 2000*;

"**rock lobster fishery**" has the same meaning as in the *Scheme of Management (Rock Lobster Fisheries) Regulations 1991*.

(2) If—

- (a) a registered fish processor purchases or obtains giant crab from—
 - (i) the holder of a licence in respect of the Miscellaneous Fishery or a rock lobster fishery; or
 - (ii) the agent of the holder of a licence referred to in subparagraph (i); and
- (b) a form GCCDR in respect of the giant crab is produced to the fish processor on delivery of the giant crab,

the fish processor must—

- (c) on taking delivery—
 - (i) immediately weigh the giant crab; and
 - (ii) immediately complete the certificate contained in Part B of that form GCCDR in respect of the giant crab; and
- (d) within 24 hours of taking delivery of the giant crab to which the form relates, deliver, or cause to be delivered, the completed form to the Director.

Penalty: Division 7 fine.

Delivery of pilchards to registered fish processor

17. (1) In this regulation—

"**form PFCDR**" means the document produced by the Department entitled *PFCDR Primary Industries (S.A.) Fisheries Pilchards Catch and Disposal Record* properly completed by the person who took the pilchards;

"**Marine Scalefish Fishery**" has the same meaning as in the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991*;

"**pilchard**" means pilchard (*Sardinops neopilchardus*);

"**pilchard quota**" has the same meaning as in the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991*.

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

- (a) the holder of a licence in respect of the Marine Scalefish Fishery that is endorsed with a condition fixing a pilchard quota on the licence; or
- (b) the agent of the holder of a licence referred to in paragraph (a),

must—

- (c) on taking delivery of the pilchards—
 - (i) immediately weigh the pilchards; and
 - (ii) immediately complete the certificate contained in Part B of a form PFCDR in respect of the pilchards; and
- (d) within 7 days of taking delivery of the pilchards to which the form relates, deliver, or cause to be delivered, the completed form to the Director.

Penalty: Division 7 fine.

Schedule—Fees

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

- (a) in the case of an application by an eligible applicant \$115
- (b) in any other case \$630

(2) If the applicant (not being an eligible applicant) proposes to process any of the following species of fish pursuant to the registration, an additional fee of \$860 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) \$20

APPENDIX 1**LEGISLATIVE HISTORY**

(entries in bold type indicate amendments incorporated since the last consolidation)

Regulation 4:	definition of "Department" inserted by 130, 1998, reg. 3(a) definition of "eligible applicant" inserted by 46, 2002, reg. 3 definition of "registration period" substituted by 130, 1998, reg. 3(b) definition of "SARDI" inserted by 164, 1994, reg. 3 definition of "registration period" inserted by 111, 1995, reg. 3 definition of "size limit" revoked by 137, 2001, reg. 3 definition of "undersize fish" substituted by 137, 2001, reg. 3
Regulation 5:	substituted by 111, 1995, reg. 4
Regulation 5(3) and (4):	substituted by 46, 2002, 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); 130, 1998, reg. 4(a)
Regulation 9(2):	varied by 111, 1992, reg. 4(b); 164, 1994, reg. 4(b); 130, 1998, reg. 4(b)
Regulation 9(3):	substituted by 111, 1995, reg. 8
Regulation 12:	substituted by 164, 1994, reg. 5
Regulation 13(1):	definition of "form CDR1" substituted by 164, 1994, reg. 6; varied by 130, 1998, reg. 5 definitions of "meat", "Western Zone Abalone Fishery" and "whole" inserted by 227, 2002, reg. 3(a)
Regulation 13(3a):	inserted by 227, 2002, reg. 3(b)
Regulation 14:	inserted by 164, 1994, reg. 7
Regulation 14(1):	definition of "SZRL2" varied by 130, 1998, reg. 6(a) definition of "SZRL3" varied by 130, 1998, reg. 6(b)
Regulation 15:	inserted by 130, 1998, reg. 7
Regulation 15(1):	definition of "blue crab net entitlement" revoked by 137, 2001, reg. 4(a) definition of "blue crab quota" inserted by 137, 2001, reg. 4(a) definition of "Marine Scalefish Fishery" inserted by 137, 2001, reg. 4(b)
Regulation 15(2):	varied by 137, 2001, reg. 4(c)
Regulations 16 and 17:	inserted by 137, 2001, reg. 5
Regulation 17(2):	varied by 46, 2002, reg. 5
Schedule:	varied by 64, 1992, reg. 3; 87, 1993, reg. 3; substituted by 111, 1995, reg. 9; varied by 137, 2001, reg. 6; 46, 2002, reg. 6

APPENDIX 2**DIVISIONAL PENALTIES AND EXPIATION FEES**

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

Division	Maximum imprisonment	Maximum fine	Expiation fee
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	\$300
7	6 months	\$2 000	\$200
8	3 months	\$1 000	\$150
9	—	\$500	\$100
10	—	\$200	\$75
11	—	\$100	\$50
12	—	\$50	\$25

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