

South Australia

Fisheries (Fish Processors) Regulations 2006

under the *Fisheries Act 1982*

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Legislative history

1—Short title

These regulations may be cited as the *Fisheries (Fish Processors) Regulations 2006*.

2—Commencement

These regulations will come into operation on 1 September 2006.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Fisheries Act 1982*;

aquaculture licence means a licence under the *Aquaculture Act 2001*;

Department means the administrative unit of the Public Service responsible, through the Minister, for the administration of the Act;

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 an aquaculture licence who applies for registration as a fish processor for the sole purpose of processing fish taken or farmed under the licence 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;

Marine Scalefish Fishery has the same meaning as in the *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 2006*;

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*.

4—Registration as fish processor

- (1) For the purposes of section 54 of the Act, an application for registration or renewal of registration as a fish processor must—
 - (a) be made to the Director in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant.
- (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 Schedule 1; or
 - (ii) the first instalment of the registration fee, in accordance with subregulation (3) or (4); and
 - (b) the amount of any previous registration fee remaining payable by the applicant.
- (3) If—
 - (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 4 equal instalments payable on or before that commencement and 1 October, 1 January and 1 April following the date of registration.
- (4) If—
 - (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 4 equal instalments payable on or before the date of renewal and 1 October, 1 January and 1 April following the date of renewal.

- (5) If 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.

5—Persons not required to be registered as fish processors

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—
 - (i) who is the holder of a fishery licence or an aquaculture licence; and
 - (ii) who only processes fish taken or farmed under the licence for sale to a registered fish processor or directly to persons who consume the fish.

6—Registration of additional premises etc

- (1) If 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 to the Director in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant; and
 - (d) be accompanied by the appropriate fee specified in Schedule 1.

7—Refund on surrender of registration

If 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.

8—Written records to be kept

- (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;
 - (e) if 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.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (5) The holder of a fishery licence or an aquaculture licence is not required to comply with this regulation in relation to fish taken or farmed under the licence.

9—Returns

- (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; and
 - (b) be signed by or on behalf of the registered fish processor; and
 - (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 aquaculture licence 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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

10—Duty to check for undersize fish

- (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.

Maximum penalty: \$2 500.

- (2) If 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.

Maximum penalty: \$2 500.

- (3) If, 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).

11—Procedure to be followed if fish obtained from unlicensed person

- (1) If a registered fish processor obtains fish that were not taken pursuant to a fishery licence, he or she must—

(a) place the fish in a container in which no other fish are stored; and

(b) immediately after placing the fish in the container—

(i) mark on the container, or on a label affixed or attached to the container, the name and address of the person from whom the fish were obtained; and

(ii) mark on the container, or on a label affixed or attached to the container—

(A) if the fish were taken in the course of recreational fishing—"Rec";

(B) if the fish were farmed under an aquaculture licence—"FF";
and

(iii) 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;

(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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) If a registered fish processor ceases to store fish under this regulation, 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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) A registered fish processor must keep any records made under this regulation for a period of 6 months after he or she has ceased to store the fish to which the records relate.

Maximum penalty: \$2 500.

Expiation fee: \$210.

12—Delivery of tuna

- (1) In this regulation—

AFMA means the Australian Fisheries Management Authority constituted by the *Fisheries Administration Act 1991* of the Commonwealth as in force from time to time;

CR3 form 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 CR3 form in respect of all of the tuna from the boat is delivered together with the tuna.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) On receiving a CR3 form under 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 AFMA.

Maximum penalty: \$2 500.

Expiation fee: \$210.

13—Delivery of abalone to registered fish processor

- (1) In this regulation—

CDR1 form 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 *Fisheries (Scheme of Management—Abalone Fisheries) Regulations 2006*;

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

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

- (a) immediately weigh the abalone; and
- (b) immediately complete the certificate contained in Part B of the form; and
- (c) within 7 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) 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 CDR1 form; and
- (b) within 6 hours of shucking the abalone, weigh the shucked abalone meat and record the weight on the form.

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

Maximum penalty: \$2 500.

Expiation fee: \$210.

14—Delivery, storage and sale of rock lobster

- (1) In this regulation—

approved means approved by the Director;

NZRL-CDR form means the form produced by the Department entitled *Northern Zone Rock Lobster Catch and Disposal Record*;

RLSTF book means the document issued by the Department containing blank RLSTF forms;

RLSTF form means the form produced by the Department entitled *Rock Lobster Sales and Transfer Form*;

SZRL2 form means the form produced by the Department entitled *SZRL2 Primary Industries (S.A.)—Fisheries Rock Lobster Purchase Record*.

- (2) Unless the contrary intention appears, terms used in this regulation that are defined in the *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 2006* have the same respective meanings as in those regulations.
- (3) A registered fish processor who purchases or obtains rock lobster from—
- (a) the holder of a licence in respect of the Northern Zone Rock Lobster Fishery; or
 - (b) an 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 not accept delivery of the rock lobster unless—

- (d) the rock lobster is delivered to the registered fish processor in bins of an approved kind each of which is sealed with a tag of an approved kind; and
- (e) the white, blue and green copies of Parts B and C of the NZRL-CDR form completed in respect of the rock lobster are delivered to the fish processor with the rock lobster.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) A registered fish processor who purchases or obtains rock lobster from a person referred to in subregulation (3) must—
- (a) immediately on taking delivery of the rock lobster at premises (or a vehicle) specified on the certificate of registration of the fish processor, weigh the sealed bins containing the rock lobster and complete the certificate in Part C of the NZRL-CDR form relating to the rock lobster; and
 - (b) within 2 hours of the rock lobster being received at premises specified on the certificate of registration of the fish processor, transmit the completed NZRL-CDR form by facsimile transmission to a facsimile number nominated by the Director for the purposes of this paragraph; and
 - (c) within 48 hours of taking delivery of the rock lobster, deliver or cause to be delivered, the green copy of Parts B and C of the NZRL-CDR form completed in respect of the rock lobster to the holder of the licence pursuant to which the rock lobster were taken; and
 - (d) within 48 hours of completing the certificate, deliver or cause to be delivered, the white copy of the completed NZRL-CDR form to the Director at an address nominated by the Director for the purposes of this paragraph.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (5) If a registered fish processor who purchases or obtains rock lobster from a person referred to in subregulation (3)—
- (a) sells the rock lobster to any person; or
 - (b) transfers the rock lobster to a different place, premises, boat or vehicle for storage at that place, premises, boat or vehicle,
- the registered fish processor must—
- (c) immediately weigh the rock lobster and complete a RLSTF form in respect of the rock lobster; and
 - (d) within 2 hours of completing the form, transmit the completed form by facsimile transmission to a facsimile number nominated by the Director for the purposes of this paragraph; and
 - (e) within 48 hours of completing the form, deliver, or cause to be delivered, the completed form to the Director at an address nominated by the Director for the purposes of this paragraph; and
 - (f) ensure that the blue copy of the completed form is kept with the rock lobster to which the form relates at all times while the rock lobster is being transported; and
 - (g) ensure that the yellow copy of the completed form remains in the RLSTF book.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (6) 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 SZRL2 form in respect of the rock lobster; and
 - (e) within 24 hours of taking delivery of the rock lobster, deliver, or cause to be delivered, the completed form to the Director.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (7) If a registered fish processor who has purchased or obtained rock lobster from a person referred to in subregulation (6)—
- (a) sells the rock lobster to any person; or
 - (b) transfers the rock lobster to a different place, premises, boat or vehicle for storage at that place, premises, boat or vehicle,

the registered fish processor must—

- (c) immediately weigh the rock lobster and complete a RLSTF form in respect of the rock lobster; and
- (d) within 24 hours of the sale or transfer of the rock lobster, deliver, or cause to be delivered, the completed form to the Director.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (8) If the provisions of this regulation require the completion of Parts A and C, or Parts B and C, of a NZRL-CDR form, the person who completes Part A or Part B (as the case requires) must not be the same person as the person who completes Part C of the form.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (9) A registered fish processor must keep the following documents for a period of 7 years:
 - (a) the blue copies of all NZRL-CDR forms completed by the registered fish processor;
 - (b) RLSTF books containing the yellow copies of all RLSTF forms completed by the registered fish processor.

Maximum penalty: \$2 500.

Expiation fee: \$210.

15—Delivery of blue crab

- (1) In this regulation—

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

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

blue crab quota has the same meaning as in the *Fisheries (Scheme of Management—Blue Crab Fishery) Regulations 1998*;

BSCF1 form 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.

- (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) an 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 BSCF1 form 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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

16—Delivery of giant crab

- (1) In this regulation—

GC-CDR form means the form produced by the Department entitled *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 *Fisheries (Scheme of Management—Miscellaneous Fishery) Regulations 2000*;

rock lobster fishery has the same meaning as in the *Fisheries (Scheme of Management—Rock Lobster Fisheries) Regulations 2006*.

- (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 GC-CDR form 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 GC-CDR form 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.

Maximum penalty: \$2 500.

Expiation fee: \$210.

17—Delivery of pilchards

- (1) In this regulation—

PF-CDR form 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;

PFTF form means the document produced by the Department entitled *Pilchard Fishery Transit Form* properly completed by the person who took the pilchards;

pilchard means pilchard (*Sardinops neopilchardus*);

pilchard quota has the same meaning as in the *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 2006*.

- (2) If—
- (a) a registered fish processor purchases or obtains pilchards from—
 - (i) the holder of a licence in respect of the Marine Scalefish Fishery endorsed with a condition fixing a pilchard quota on the licence; or
 - (ii) an agent of the holder of a licence referred to in subparagraph (i); and
 - (b) the pilchards are consigned to the registered fish processor when the pilchards are unloaded from the registered boat from which they were taken; and
 - (c) the pilchards are to be transported to the registered premises of the registered fish processor by 2 or more vehicles,

the registered fish processor must, before the vehicles depart for the registered premises, complete Part B of a PFTF form in respect of each vehicle other than the vehicle in which pilchards are to be transported together with a PF-CDR form in respect of the pilchards.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) A registered fish processor who purchases or obtains pilchards from a person referred to in subregulation (2)(a)(i) or (ii) must—
- (a) on delivery of the pilchards to the registered premises of the registered fish processor—
 - (i) immediately weigh the pilchards; and
 - (ii) immediately complete the certificate contained in Part B of a PF-CDR form in respect of the pilchards; and
 - (b) within 7 days of taking delivery of the pilchards to which the PF-CDR form relates, deliver, or cause to be delivered, the completed form to the Director.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) A registered fish processor must keep the blue copies of all PF-CDR forms completed by the registered fish processor for a period of 7 years.

Maximum penalty: \$2 500.

Expiation fee: \$210.

18—Provision relating to keeping of documents

A registered fish processor required by these regulations to keep a document for a period of time must ensure that the document—

- (a) is maintained in a good condition and is legible; and
- (b) is kept in a readily accessible place; and

- (c) is produced for inspection by a fisheries officer on request.
Maximum penalty: \$2 500.
Expiation fee: \$210.

Schedule 1—Fees

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|---|--|------------|
| 1 | For registration or renewal of registration as a fish processor (regulation 4)— | |
| | (a) in the case of an application by an eligible applicant | \$135.00 |
| | (b) in any other case | \$781.00 |
| 2 | Fee (per species) (in addition to the fee payable under clause 1(b)) where the applicant (not being an eligible applicant) proposes to process any of the following species of fish pursuant to the registration: | \$1 009.00 |
| | abalone (<i>Haliotis</i> spp.) of all species | |
| | southern rock lobster (<i>Jasus edwardsii</i>) | |
| | western king prawn (<i>Penaeus latisulcatus</i>). | |
| | If 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. | |
| 3 | On application to have additional premises, places, boats or vehicles specified in the certificate of registration (regulation 6) | \$23.90 |

Schedule 2—Revocation

The *Fisheries (Fish Processors) Regulations 1991* are revoked.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2006	204	<i>Gazette</i> 24.8.2006 p2929	1.9.2006: r 2
2007	124	<i>Gazette</i> 7.6.2007 p2477	1.7.2007: r 2