

South Australia

Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 2006

under the *Fisheries Act 1982*

Contents

- 1 Short title
- 3 Interpretation
- 4 Constitution of fisheries
- 5 No further licences to be granted
- 6 Expiry of licences
- 7 Renewal of licence
- 8 Refund on surrender of licence
- 9 Transfer of licences
- 10 Transfer of licences between family members
- 11 Transfer of licences under amalgamation scheme
- 12 Registration of boats
- 13 Registration of masters
- 14 Revocation of registration
- 15 Registered master may be assisted by only 1 agent
- 16 Carriage of crab nets on boats
- 17 Individual blue crab catch quota system
- 18 Individual pilchard catch quota system
- 19 Restriction on use of certain registered boats to take pilchards
- 20 Information to be provided to Director before certain registered boats are used to take pilchards
- 21 Use of agents in fishing activities
- 22 Catch and disposal records—blue crab
- 23 Disposal of pilchards
- 24 Restriction on unloading of pilchards onto other boats
- 25 Information relating to catch and disposal of pilchards to be reported to Director
- 26 Catch and disposal records—pilchards
- 27 Returns
- 28 Provision relating to keeping of documents

Schedule 1—Fish prescribed for marine scalefish fisheries

Schedule 2—Fees

Schedule 3—Revocation of *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991*

Legislative history

1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 2006*.

3—Interpretation

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

Act means the *Fisheries Act 1982*;

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

coastal waters means the waters of the ocean and all bays, gulfs, straits, passages, inlets and estuaries of the State that are subject to the tidal influence of the sea, but does not include the waters of the Coorong between the barrages and the Murray Mouth;

crab net has the same meaning as in the *Fisheries (General) Regulations 2000*;

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

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

Gulf St. Vincent Blue Crab Fishing Zone has the same meaning as in the *Fisheries (Scheme of Management—Blue Crab Fishery) Regulations 1998*;

marine scalefish fishery means—

- (a) the Marine Scalefish Fishery; or
- (b) the Restricted Marine Scalefish Fishery,

constituted by these regulations;

MSFP licence means a licence in respect of the Marine Scalefish Fishery endorsed with a condition fixing a pilchard quota on the licence;

PF-CDR form—see regulation 25;

pilchard means pilchard (*Sardinops neopilchardus*);

pilchard net has the same meaning as in the *Fisheries (General) Regulations 2000*;

revoked regulations means the regulations revoked by Schedule 3;

SARDI means the South Australian Research and Development Institute;

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

spouse—a person is the spouse of another if they are legally married.

- (2) In these regulations, a reference to the **taking of fish** includes a reference to an act preparatory to, or involved in the taking of the fish.

4—Constitution of fisheries

- (1) The following fisheries are constituted:
 - (a) the Marine Scalefish Fishery;
 - (b) the Restricted Marine Scalefish Fishery.
- (2) The Marine Scalefish Fishery and the Restricted Marine Scalefish Fishery each consist of—
 - (a) the taking of fish specified in Schedule 1 in coastal waters; and
 - (b) the taking of razor fish (*Pinna bicolor*) in coastal waters for the purpose of bait.
- (3) The holder of a licence in respect of a marine scalefish fishery must not, for the purpose of trade or business, take blue crab in the waters of a blue crab fishing zone unless the licence is endorsed with a condition fixing a blue crab quota on the licence in relation to that zone.

Penalty: \$4 000.

5—No further licences to be granted

- (1) The licences in respect of the Marine Scalefish Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Marine Scalefish Fishery subject to the provisions of the Act and these regulations, and no other licences may be granted in respect of the fishery.
- (2) The licences in respect of the Restricted Marine Scalefish Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Restricted Marine Scalefish Fishery subject to the provisions of the Act and these regulations, and no other licences may be granted in respect of the fishery.

6—Expiry of licences

A licence in respect of a marine scalefish fishery expires on 30 June following the date of its last renewal.

7—Renewal of licence

- (1) A licence in respect of a marine scalefish fishery may be renewed by the Director on application made before the expiry of the licence or before the end of the licence period following the expiry of the licence.
- (2) An application to renew a licence in respect of a marine scalefish fishery must be made by the holder of the licence or, if the licence has expired, by the person who last held the licence.
- (3) An application to renew a licence in respect of a marine scalefish fishery must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicant.

- (4) If an application to renew a licence is made before the expiry of the licence, the renewal of the licence takes effect from the expiry of the licence.
- (5) If an application to renew a licence is made after the expiry of the licence, the renewal of the licence takes effect from the date on which the application is granted.
- (6) A person who makes application to renew a licence must pay the renewal fee specified in Schedule 2.
- (7) If an application to renew a licence is made before or within 3 months after the expiry of the licence, the renewal fee may be paid by 4 equal instalments payable on or before the date of renewal of the licence and 1 October, 1 January and 1 April following the date of renewal.
- (8) If an instalment of a renewal fee is not paid in full within 21 days after the due date for payment, an additional amount equal to 10 per cent of the unpaid balance of the instalment is payable.
- (9) If—
 - (a) an instalment of a renewal fee for a licence is not paid in full on or before the due date; or
 - (b) an additional amount is required to be paid for late payment of an instalment of a renewal fee,

the amount unpaid may be recovered from the holder of the licence or the person who last held the licence as a debt due to the Crown.

8—Refund on surrender of licence

If a licence in respect of a marine scalefish fishery is surrendered, the Director must, on application by the former licensee made in a form approved by the Director, refund an amount that bears to the renewal fee last paid in respect of the licence the same proportion as the number of complete months from the date of surrender to the day on which the following licence period commences bears to the number of months in the licence period during which the licence was surrendered.

9—Transfer of licences

- (1) In this regulation—

authorised amalgamation scheme transfer means a transfer of a licence that is authorised under regulation 11;

authorised family transfer means a transfer of a licence that is authorised under regulation 10.
- (2) Subject to these regulations, a licence in respect of a marine scalefish fishery may be transferred with the consent of the Director.
- (3) A licence in respect of the Restricted Marine Scalefish Fishery cannot be transferred to the holder of another licence in respect of that fishery.
- (4) An application for consent to the transfer of a licence must—
 - (a) be made jointly by the holder of the licence and the transferee in a form approved by the Director; and
 - (b) contain the information specified in the form; and

- (c) be verified by statutory declaration; and
- (d) be accompanied by—
 - (i) the licence to be transferred; and
 - (ii) a form of return as required by regulation 27 completed by the holder of the licence up to the date of application; and
 - (iii) the appropriate fee specified in Schedule 2.
- (5) Before consenting to the transfer of a licence, the Director must be satisfied—
 - (a) that the transfer is—
 - (i) an authorised family transfer; or
 - (ii) an authorised amalgamation scheme transfer; and
 - (b) that the licence to be transferred has not been suspended; and
 - (c) that the transfer is to 1 person only; and
 - (d) that the transferee is a natural person who—
 - (i) is at least 15 years of age; and
 - (ii) has not, within the period of 3 years preceding the date of the application, been convicted in the State or elsewhere in Australia of an offence involving a breach of legislation relating to fishing; and
 - (e) that no proceedings alleging an offence under the Act are pending or likely to be commenced in the State against the holder of the licence; and
 - (f) that no proceedings alleging an offence involving a breach of legislation relating to fishing are pending or likely to be commenced in the State or elsewhere in Australia against the transferee; and
 - (g) if any boat registered by endorsement of the licence is the subject of, is registered by endorsement of, or is otherwise referred to in, a licence, permit, authority or other entitlement to take fish granted under the Commonwealth Act or the law of another State or Territory—
 - (i) that the entitlement is either to be transferred together with the fishery licence to the transferee or to be surrendered on or before the transfer of the fishery licence; or
 - (ii) that—
 - (A) the transfer of the fishery licence separately from the entitlement is not likely to result in fishing activities that endanger or overexploit fishery resources; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

10—Transfer of licences between family members

Subject to regulation 9, a licence in respect of the Marine Scalefish Fishery may be transferred if the transferee is—

- (a) the spouse or domestic partner of the licensee; or

- (b) a parent or grandparent of the licensee; or
- (c) a brother or sister, or half-brother or half-sister, of the licensee; or
- (d) a child or grandchild of the licensee; or
- (e) a child or grandchild of the spouse or domestic partner of the licensee.

11—Transfer of licences under amalgamation scheme

- (1) In this regulation—

aggregate fishing points value, in relation to 2 or more licences, means the sum of the fishing points values endorsed on the licences under this regulation;

aggregate gear entitlement, in relation to 2 or more licences, means the aggregate of the numbers and kinds of devices the use of which is authorised by the gear endorsements of the licences (subject to any applicable limitations on the use of devices imposed by the *Fisheries (General) Regulations 2000*);

gear endorsement of a licence means the conditions and registrations endorsed on the licence under the Act specifying the numbers and kinds of devices that may be used for the purpose of taking fish pursuant to the licence;

licence means a licence in respect of a marine scalefish fishery;

line licence means a licence other than a net licence;

net means a fish net as defined in the *Fisheries (General) Regulations 2000* but does not include a bait net as defined in those regulations;

net licence means a licence with a gear endorsement authorising the use of 1 or more nets (whether or not the endorsement authorises the use of other devices).

- (2) For the purposes of this regulation, the Director must adopt and implement a system for ranking net licences in respect of the Marine Scalefish Fishery and a system for ranking line licences in respect of that fishery under which—
- (a) points are allotted to every net licence or line licence, as the case may be, based on—
 - (i) the quantities of each fish species taken pursuant to the licence during a specified period (as recorded on returns lodged in respect of the licence under regulation 27 or the corresponding regulation previously in force); and
 - (ii) values (reflecting market values) applied in relation to those recorded quantities of each fish species,so that the greater the resulting total value the greater the points allotted to the licence; and
 - (b) all net licences are arranged in ascending order of allotted points and then divided into 10 approximately equal groups and all line licences are similarly arranged and divided into groups; and
 - (c) the licences in each group are each given a value (a **fishing points value**) starting with 11 for the group with the lowest range of allotted points, 12 for the next group and so on through to 18 so that the value 18 is given to the licences in the groups with the 3 highest ranges of allotted points.

- (3) The Director must then endorse on each licence in respect of the Marine Scalefish Fishery the fishing points value given to the licence under the system for ranking net licences or the system for ranking line licences (as the case may be) under subregulation (2).
- (4) The Director must endorse on each licence in respect of the Restricted Marine Scalefish Fishery a fishing points value of 7.
- (5) The fishing points value endorsed on a licence under this regulation may be varied only—
 - (a) to reflect a change of the licence from a net licence to a line licence; or
 - (b) as otherwise required under this regulation; or
 - (c) in order to correct an error.
- (6) Subject to regulation 9, a licence may then be transferred as authorised under the following provisions:
 - (a) a net licence in respect of the Marine Scalefish Fishery may be transferred to the holder of another net licence in respect of that fishery;
 - (b) a line licence in respect of the Marine Scalefish Fishery may be transferred to the holder of another line licence in respect of that fishery;
 - (c) 1 or 2 licences in respect of the Restricted Marine Scalefish Fishery may be transferred to the holder of a licence in respect of the Marine Scalefish Fishery;
 - (d) if a transfer of a kind referred to in a preceding paragraph has effect, the transferee must surrender to the Director 1 of the 2 licences, or 2 of the 3 licences, as the case may be, then held by the transferee;
 - (e) if 1 or more of the licences held by the transferee has recorded on it under section 56 of the Act a conviction for an offence committed within the preceding period of 3 years, the licence or licences surrendered must be—
 - (i) the licence or licences without such a conviction, or as the case may require, the licence or licences with the lesser number of such convictions, recorded on the licence or licences; or
 - (ii) if the same number of such convictions is recorded on each licence—the licence or licences other than the licence with a conviction recorded on it for the most recently committed offence;
 - (f) if 1 or more licences are to be surrendered but—
 - (i) the last renewal fee for a licence to be surrendered has not been paid in full; or
 - (ii) an additional amount is required to be paid for late payment of an instalment of the renewal fee,
the balance of the renewal fee and any such additional amount must be paid before or when that licence is surrendered;
 - (g) on the surrender of a licence and payment of any amount required to be paid under paragraph (f) in respect of the licence, the Director must—

- (i) replace the gear endorsement of the remaining licence held by the transferee with a gear endorsement that makes provision for the aggregate gear entitlement in relation to that licence and the surrendered licence or licences; and
 - (ii) vary the fishing points value endorsed on the remaining licence under this regulation so that it equals the aggregate fishing points value in relation to that licence and the surrendered licence or licences;
- (h) when, as a result of the process referred to in paragraphs (a) to (g), the fishing points value endorsed on a licence under this regulation equals or exceeds 24, the licence may be transferred without complying with those paragraphs;
- (i) paragraph (h) does not prevent the holder of a licence with a fishing points value that equals or exceeds 24 from transferring the licence under the process referred to in paragraphs (a) to (g).

12—Registration of boats

- (1) An application to register a boat to be used pursuant to a licence in respect of a marine scalefish fishery must—
- (a) be made 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 applicant's licence in respect of the fishery.
- (2) Before granting an application to register a boat, the Director must be satisfied that the applicant holds a licence in respect of the fishery.

13—Registration of masters

- (1) An application to register a person as the master of a boat used pursuant to a licence in respect of a marine scalefish fishery must—
- (a) be made 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 applicant's licence in respect of the fishery.
- (2) A person other than the holder of the licence cannot be registered as the master of a boat used pursuant to the licence unless the holder of the licence is already registered as the master of a boat used pursuant to a licence in respect of a marine scalefish fishery.

14—Revocation of registration

- (1) The Director may, on application by the holder of a licence in respect of a marine scalefish fishery, revoke a registration effected by endorsement of the licence.
- (2) An application for revocation of a registration must—
- (a) be made in a form approved by the Director; and

- (b) be signed by the applicant; and
- (c) be accompanied by the applicant's licence in respect of the fishery.

15—Registered master may be assisted by only 1 agent

The registered master of a boat registered by endorsement of a licence in respect of the Restricted Marine Scalefish Fishery must not, when using the boat for the purpose of engaging in a fishing activity of a class that constitutes the fishery, cause or permit more than 1 other person to assist him or her in that activity.

Maximum penalty: \$4 000.

Expiation fee: \$315.

16—Carriage of crab nets on boats

The Director may impose conditions on licences in respect of a marine scalefish fishery limiting the number of crab nets that may be carried on boats and otherwise regulating the carrying of crab nets used for fishing activities pursuant to the licences.

17—Individual blue crab catch quota system

- (1) In this regulation—

blue crab quota, in relation to a licence in respect of a marine scalefish fishery or the Blue Crab Fishery and a blue crab fishing zone, means the maximum number of kilograms of blue crab that may lawfully be taken by the holder of the licence in that zone during a licence period, being the product of—

- (a) the unit entitlement of that licence in respect of that zone; and
- (b) the unit value for that zone and that licence period,

subject to any variation of the blue crab quota of the licence applying during that licence period;

licence period means the period of 12 months commencing on 1 July in any year;

unit entitlement, in relation to a licence in respect of a marine scalefish fishery or the Blue Crab Fishery and a blue crab fishing zone, means the number of blue crab units for the time being allocated to the licence in respect of that zone;

unit value means the number of kilograms of blue crab determined by the Director to be the value of a blue crab unit for a blue crab fishing zone and a licence period.

- (2) The Director may vary conditions on licences in respect of a marine scalefish fishery varying blue crab quotas (and may vary conditions on licences in respect of the Blue Crab Fishery varying blue crab quotas) as follows:
 - (a) on or before the commencement of each licence period, the Director must determine the number of kilograms of blue crab that is to be the value of a blue crab unit for a blue crab fishing zone and the licence period;
 - (b) on joint application made to the Director by the holders of any 2 licences in respect of a marine scalefish fishery endorsed with conditions fixing blue crab quotas on the licences in relation to the same blue crab fishing zone, the conditions of the licences may be varied so as to increase the unit entitlement of 1 of the licences in respect of that zone and decrease the unit entitlement of the other licence in respect of that zone by a corresponding number of units;

- (c) on joint application made to the Director by the holder of a licence in respect of a marine scalefish fishery endorsed with a condition fixing a blue crab quota on the licence in relation to a particular blue crab fishing zone (the *first licence*) and the holder of another licence in respect of a marine scalefish fishery, being a licence not endorsed with a condition fixing a blue crab quota on the licence (whether at all or in relation to that zone) (the *second licence*)—
- (i) the conditions of the first licence may be varied so as to decrease the unit entitlement of that licence in respect of that zone; and
 - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a blue crab quota on that licence in respect of that zone may be imposed;
- (d) on joint application made to the Director by the holder of a licence in respect of a marine scalefish fishery endorsed with a condition fixing a blue crab quota on the licence in relation to a particular blue crab fishing zone (the *first licence*) and the holder of a licence in respect of the Blue Crab Fishery endorsed with a condition fixing a blue crab quota on the licence in respect of the same zone (the *second licence*)—
- (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence in respect of that zone by a corresponding number of units; or
 - (ii) the conditions of the first licence may be varied so as to increase the unit entitlement under that licence in respect of that zone and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence in respect of that zone by a corresponding number of units;
- (e) on joint application made to the Director by the holder of a licence in respect of the Blue Crab Fishery endorsed with a condition fixing a blue crab quota in respect of a particular blue crab fishing zone (the *first licence*) and the holder of a licence in respect of a marine scalefish fishery not endorsed with a condition fixing a blue crab quota on the licence (whether at all or in relation to the same zone) (the *second licence*)—
- (i) the conditions of the first licence may be varied so as to decrease the unit entitlement of that licence in respect of that zone; and
 - (ii) a corresponding number of units may be allocated to the second licence and a condition fixing a blue crab quota on that licence in respect of that zone may be imposed;
- (f) the Director may, if the total blue crab catch taken pursuant to a licence in respect of a marine scalefish fishery during a licence period exceeded the blue crab quota of the licence for that licence period, vary the conditions of the licence so as to decrease the quota—
- (i) if the catch exceeded the quota by not more than 20 kilograms of blue crab—by 1 kilogram for each kilogram in excess of the quota; or

- (ii) if the catch exceeded the quota by more than 20 kilograms but not more than 50 kilograms of blue crab—by 2 kilograms for each kilogram in excess of the quota;
 - (g) a variation of a blue crab quota made under paragraph (f) must be expressed to apply only for the licence period during which the variation is made;
 - (h) unit entitlements and blue crab quotas must not be varied except as provided by this regulation or the *Fisheries (Scheme of Management—Blue Crab Fishery) Regulations 1998*.
- (3) If—
 - (a) a court convicts the holder of a licence in respect of a marine scalefish fishery of an offence of contravening a condition of the licence imposing a blue crab quota on the licence; and
 - (b) the conduct constituting the offence involved the taking of more than 50 kilograms of blue crab in excess of the quota,

the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the blue crab quota of the licence for 3 licence periods following the conviction by 1 kilogram for each kilogram in excess of the quota for the licence period during which the offence was committed.
- (4) An application under subregulation (2)(b), (c), (d) or (e) must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicants; and
 - (d) be accompanied by—
 - (i) the licences in respect of which the application is made; and
 - (ii) the appropriate fee specified in Schedule 2.
- (5) The holder of a licence in respect of a marine scalefish fishery endorsed with a condition fixing a blue crab quota on the licence must not, while the unit entitlement of the licence is less than—
 - (a) in the case of a licence referred to in Schedule 4 of the revoked regulations as in force immediately before the commencement of these regulations—19 blue crab units; or
 - (b) in any other case—80 blue crab units,

take blue crab pursuant to the licence except in the waters of the State west of longitude 135°E.

Maximum penalty: \$4 000.

18—Individual pilchard catch quota system

- (1) This regulation applies only in relation to licences in respect of the Marine Scalefish Fishery endorsed with a condition permitting the holder of the licence to take pilchards by use of a pilchard net.

(2) In this regulation—

pilchard quota, in relation to a licence in respect of the Marine Scalefish Fishery, means the maximum number of kilograms of pilchard that may lawfully be taken by the holder of the licence during a prescribed period, being the product of—

- (a) the unit entitlement of that licence; and
- (b) the unit value for that prescribed period,

subject to any variation of the pilchard quota of the licence applying during that prescribed period;

prescribed period means a calendar year;

unit entitlement means the number of pilchard units for the time being allocated to a licence;

unit value means the number of kilograms of pilchard determined by the Director to be the value of a pilchard unit for a prescribed period.

(3) The Director may impose or vary conditions on licences in respect of the Marine Scalefish Fishery fixing pilchard quotas as follows:

- (a) all licences in respect of the fishery must be allocated the same number of pilchard units;
- (b) the Director must, on or before the commencement of each prescribed period, determine the number of kilograms of pilchard that is to be the value of a pilchard unit for the prescribed period;
- (c) the Director may, not more than twice during a prescribed period, vary the conditions of all licences in respect of the fishery so as to increase the pilchard quotas of the licences by the same number of pilchard units;
- (d) on joint application made to the Director by the holders of any 2 licences in respect of the fishery, the conditions of those licences may be varied so as to increase (by whole units or part units) the unit entitlement under 1 of the licences and decrease the unit entitlement of the other licence by a corresponding number of units;
- (e) the Director may, if the total pilchard catch taken pursuant to a licence during a prescribed period exceeded the pilchard quota of the licence for that prescribed period, vary the conditions of the licence so as to decrease the quota—
 - (i) if the catch exceeded the quota by not more than 2 000 kilograms of pilchard—by 1 kilogram for each kilogram in excess of the quota; or
 - (ii) if the catch exceeded the quota by more than 2 000 kilograms but not more than 4 000 kilograms of pilchard—by 2 kilograms for each kilogram in excess of the quota;
- (f) a variation of—
 - (i) a pilchard quota made pursuant to paragraph (c) or (e); or
 - (ii) a unit entitlement made pursuant to paragraph (d),

must be expressed to apply only for the remainder of the prescribed period during which the variation is made;

- (g) unit entitlements and pilchard quotas must not be varied except as provided by this regulation.
- (4) An application under subregulation (3)(d) must—
 - (a) be made in a form approved by the Director; and
 - (b) contain the information specified in the form; and
 - (c) be signed by the applicants; and
 - (d) be accompanied by—
 - (i) the licences in respect of which the application is made; and
 - (ii) the appropriate fee specified in Schedule 2.
- (5) If—
 - (a) a court convicts the holder of a licence in respect of the Marine Scalefish Fishery of an offence of contravening a condition of the licence imposing a pilchard quota on the licence; and
 - (b) the conduct constituting the offence involved the taking of more than 4 tonnes of pilchard in excess of the quota,

the court must make an order requiring the Director to vary the conditions of the licence so as to reduce the pilchard quota of the licence for 3 prescribed periods following the conviction by 1 kilogram for each kilogram in excess of the quota for the prescribed period during which the offence was committed.

19—Restriction on use of certain registered boats to take pilchards

- (1) A boat registered by endorsement of more than 1 MSFP licence must not be used to take pilchards pursuant to more than 1 such licence at any 1 time.
- (2) If subregulation (1) is contravened, the registered owner and registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$4 000.

Expiation fee: \$315.

20—Information to be provided to Director before certain registered boats are used to take pilchards

- (1) Subject to subregulation (3), at least 4 hours before a boat registered by endorsement of more than 1 MSFP licence departs on a trip during which it is to be used to take pilchards pursuant to such a licence, the Director must be informed by telephone of—
 - (a) the intended time of the boat's departure; and
 - (b) the number of the licence pursuant to which the boat is to be used.
- (2) If subregulation (1) is not complied with, the registered owner and registered master of the registered boat are each guilty of an offence.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (3) If a boat is used to take pilchards on 2 or more consecutive occasions pursuant to the same MSFP licence, subregulation (1) need only be complied with in relation to the first occasion.

21—Use of agents in fishing activities

- (1) The holder of a licence in respect of a marine scalefish fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit a person to be engaged on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery unless—
- (a) the holder of the licence or the registered master is at the same time also engaged on the shore in a fishing activity of a class that constitutes the fishery; and
 - (b) the holder of the licence or the registered master (as the case may be) and the other person remain, while so engaged, within 700 metres of each other.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (2) The holder of a licence in respect of the Marine Scalefish Fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 2 persons to be engaged at the same time on the shore as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (3) The holder of a licence in respect of the Restricted Marine Scalefish Fishery or the registered master of a boat registered by endorsement of such a licence must not cause or permit more than 1 person to be engaged at the same time on the shore as an agent of the holder of the licence in a fishing activity of a class that constitutes the fishery.

Maximum penalty: \$4 000.

Expiation fee: \$315.

22—Catch and disposal records—blue crab

- (1) In this regulation—

CDR book means a book issued by the Department containing blank BSCF1 forms;

BSCF1 form means the document produced by the Department entitled *BSCF1 Primary Industries (S.A.) Fisheries Blue Crab Catch and Disposal Record*.

- (2) The holder of a licence in respect of a marine scalefish fishery endorsed with a condition fixing a blue crab quota on the licence or the registered master of a boat from which blue crab is taken pursuant to such a licence must comply with the following provisions:
- (a) immediately on landing blue crab taken pursuant to the licence, he or she must weigh the crabs on accurate scales and complete Part A of a BSCF1 form;

- (b) he or she must cause the crabs to which the completed Part A of that form relates to be transported to the registered premises of the registered fish processor specified on the form, together with the white, blue and green copies of the completed form;
 - (c) he or she must complete BSCF1 forms in consecutive ascending order and complete all forms in a CDR book before commencing to use a new CDR book;
 - (d) he or she must ensure that the yellow copies of BSCF1 forms and the CDR book are kept on board the registered boat until the CDR book is completed;
 - (e) he or she must deliver a completed CDR book to the Director of Fisheries within 14 days of its completion.
- (3) If a provision of subregulation (2) is not complied with, the holder of the licence is guilty of an offence.
- Maximum penalty: \$4 000.

23—Disposal of pilchards

The holder of a MSFP licence must ensure that all pilchards taken pursuant to the licence are delivered or consigned to a registered fish processor.

Maximum penalty: \$4 000.

Expiation fee: \$315.

24—Restriction on unloading of pilchards onto other boats

The registered owner or registered master of a registered boat from which pilchards are taken pursuant to a MSFP licence must not cause, suffer or permit the pilchards to be unloaded onto another boat unless the other boat is specified on the certificate of registration of the registered fish processor to whom the pilchards are to be consigned.

Maximum penalty: \$4 000.

Expiation fee: \$315.

25—Information relating to catch and disposal of pilchards to be reported to Director

- (1) If pilchards are taken from a registered boat pursuant to a MSFP licence, the holder of the licence must ensure that the information specified in subregulation (2) is reported to the Director within the time specified in subregulation (3).
- Maximum penalty: \$2 500.
- Expiation fee: \$210.
- (2) The information that must be reported is—
- (a) the name of the person making the telephone call; and
 - (b) the number of the licence pursuant to which the pilchards were taken; and
 - (c) the name of the registered boat from which the pilchards were taken; and
 - (d) the name of the registered master of the registered boat; and

- (e) the location at which the pilchards are to be unloaded from the registered boat; and
 - (f) the estimated time of arrival of the registered boat at that location; and
 - (g) the estimated total weight in tonnes of the pilchards taken; and
 - (h) the name of the registered fish processor to whom the pilchards are to be consigned; and
 - (i) whether the pilchards are to be delivered to the registered premises of the registered fish processor or to be loaded onto a boat specified in the certificate of registration of the registered fish processor; and
 - (j) the estimated time at which the pilchards are to be unloaded from the registered boat; and
 - (k) the number of the PF-CDR form that is to be completed in respect of the pilchards.
- (3) The time within which the information must be reported to the Director is—
- (a) if the pilchards are to be delivered to the registered premises of a registered fish processor—at least 1 hour before the pilchards are unloaded from the registered boat; or
 - (b) if the pilchards are to be loaded onto a boat specified in the certificate of registration of a registered fish processor—at least 2 hours before the pilchards are unloaded from the registered boat.
- (4) If, after the name of a registered fish processor is reported to the Director under subregulation (1), the holder of the licence decides to consign the pilchards to a different fish processor from that named in the report, the holder of the licence must ensure that the name of the other registered fish processor is reported to the Director before the pilchards are unloaded from the registered boat.
- Maximum penalty: \$4 000.
Expiation fee: \$315.
- (5) A report required by subregulation (1) or (4) must be made by telephone to a telephone number provided by the Director for the purposes of this regulation.

26—Catch and disposal records—pilchards

- (1) In this regulation—

PF-CDR book means the book issued by the Department containing blank PF-CDR forms;

PF-CDR form means the form produced by the Department entitled *PFCDR Primary Industries (SA) Fisheries Pilchards Catch and Disposal Record*;

PFTF form means the form produced by the Department entitled *Pilchard Fishery Transit Form*;

PFTF book means the book issued by the Department containing blank PFTF forms.

- (2) If pilchards are taken from a registered boat pursuant to a MSFP licence, the holder of the licence or the registered master of the registered boat must comply with the following provisions:
- (a) immediately after the pilchards are unloaded from the registered boat, he or she must complete Part A of a PF-CDR form in respect of the pilchards;
 - (b) if the pilchards are to be loaded onto a boat specified in the certificate of registration of a registered fish processor, he or she must ensure that the blue and green copies of the PF-CDR form completed in respect of the pilchards are given to the registered fish processor or an agent of the registered fish processor when the pilchards are loaded onto that boat;
 - (c) if the pilchards are to be transported to the registered premises of a registered fish processor, he or she must ensure that the blue and green copies of the PF-CDR form completed in respect of the pilchards are transported to the registered premises together with the pilchards;
 - (d) if the pilchards are to be transported to the registered premises of a registered fish processor by 2 or more vehicles, he or she must ensure that—
 - (i) the blue and green copies of the PF-CDR form completed in respect of the pilchards are transported in 1 of the vehicles together with the pilchards; and
 - (ii) Part A of a PFTF form is completed in respect of each other vehicle that is to be used to transport the pilchards; and
 - (iii) the blue copy of a PFTF form completed in respect of a vehicle is transported to the registered premises together with the pilchards carried in that vehicle;
 - (e) he or she must cause the white copy of a PFTF form completed in respect of a vehicle to be posted to the Director within 48 hours of the pilchards having been loaded onto the vehicle for transportation to the registered premises of the registered fish processor;
 - (f) he or she must cause the white copy of the PF-CDR form completed in respect of the pilchards to be posted to the Director—
 - (i) within 24 hours of the pilchards having been unloaded from the registered boat; or
 - (ii) if a copy of the form has been sent to the Director by facsimile transmission—within 48 hours of the pilchards having been unloaded from the registered boat;
 - (g) he or she must ensure that the CDR book is kept on the registered boat until all the PF-CDR forms in the book are completed.
- (3) If a provision of subregulation (2) is not complied with, the holder of the licence is guilty of an offence.
- Maximum penalty: \$4 000.
- Expiation fee: \$315.

- (4) The holder of a MSFP licence must ensure that if a PF-CDR form completed in respect of pilchards taken pursuant to the licence is cancelled, all copies of the form are marked with the word "cancelled" and the white, blue and green copies of the form are delivered to the Director within 24 hours of the cancellation.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (5) The holder of a MSFP licence must keep the following documents for a period of 7 years:
- (a) CDR books containing the yellow copies of completed PF-CDR forms;
 - (b) PFTF books containing the yellow copies of completed PFTF forms.

Maximum penalty: \$4 000.

Expiation fee: \$315.

27—Returns

- (1) The holder of a licence in respect of a marine scalefish fishery must—
- (a) complete a return, in a form determined by the Minister, in respect of each calendar month during the currency of the licence; and
 - (b) include in the return such information as the Executive Director of SARDI, with the approval of the Minister, requires; and
 - (c) date and sign the return and certify that the information contained in the return is complete and accurate, and post or deliver the return to the office of the Executive Director of SARDI within 15 days of the end of the month to which it relates.

Maximum penalty: \$4 000.

Expiation fee: \$315.

- (2) If the holder of a licence takes no fish pursuant to the licence during a particular calendar month, he or she is required by subregulation (1) to furnish a return in respect of that period indicating that no fish were taken.
- (3) If a marine scalefish fishery has been closed for a whole calendar month, the holder of a licence need not furnish a return for that month.
- (4) The holder of a licence must—
- (a) make a copy of each return that he or she completes under this regulation before the return is sent or delivered to the Executive Director of SARDI; and
 - (b) retain the copy for a period of 12 months from the last day of the month to which the return relates.

Maximum penalty: \$4 000.

28—Provision relating to keeping of documents

A person 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—Fish prescribed for marine scalefish fisheries

Scalefish

Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Bluethroated wrasse (*Notolabrus tetricus*)

Bream (*Acanthopagrus butcheri*)

Cod (marine species) (Family Moridae)

Dory (Family Zeidae)

Flathead (Family Platycephalidae)

Flounder (Family Pleuronectidae) (Family Bothidae)

Garfish (*Hyporhamphus melanochir*)

Horse Mackerel (*Trachurus declivis*)

Leather jacket (Family Aluteridae)

Ling (*Genypterus blacodes*)

Mackerel (*Scomber australasicus*)

Morwong (Family Cheilodactylidae)

Mullet (all species) (Family Mugilidae)

Mulloway (*Argyrosomus hololepidotus*)

Nannygai, Red snapper, Swallowtail (Family Berycidae)

Pilchard (*Sardinops neopilchardus*)

Red mullet (*Upeneichthys porosus*)

Salmon (*Arripis truttaceus*)

Snapper (*Chrysophrys auratus*)

Snook (*Sphyraena novaehollandiae*)

Sole (*Aserragodes haackeanus*)

Sweep (*Scorpis aequipinnis*)

Tommy ruff (*Arripis georgianus*)

Trevalla (*Hyperoglyphe antarctica*)

Trevally (*Usacaranx georgianus*)

Whiting (Family Sillaginidae)

Yellowtail kingfish (*Seriola grandis*)

Crustaceans

Crab, blue (*Portunus pelagicus*)

Crab, sand (*Ovalipes australiensis*)

Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 2006—1.7.2007 to 30.11.2007

Schedule 1—Fish prescribed for marine scalefish fisheries

Crab, rock (*Nectocarcinus integrifrons*)

Crab, velvet (*Nectocarcinus tuberculatus*)

Molluscs

Cockle (Suborder Teledonta)

Cuttlefish (*Sepia* spp.)

Mussels (*Mytilus* spp.)

Octopus (*Octopus* spp.)

Oyster (Family Ostidae)

Scallop (Family Pectinidae)

Squid, calamary (*Sepioteuthis australis*)

Squid, arrow (*Notodarus gouldii*)

Annelids

Beachworm (Class Polychaeta)

Bloodworm (Class Polychaeta)

Tubeworm (Class Polychaeta)

Sharks

All species of shark (Class Elasmobranchii) other than white pointer shark (*Carcharodon carcharias*)

Rays (Class Elasmobranchii)

Skate (Class Elasmobranchii)

Schedule 2—Fees

1	On application for the renewal of a licence in respect of a marine scalefish fishery	\$3 870.00
2	On application for the renewal of a licence endorsed with a condition fixing a blue crab quota on the licence (in addition to the fee payable under clause 1)—for each blue crab unit allocated to the licence	\$21.50
3	On application for consent to the transfer of a licence in respect of a marine scalefish fishery	\$324.00
4	On application to vary licence conditions so as to alter unit entitlements in respect of blue crab or pilchards	\$108.00

Schedule 3—Revocation of *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991*

The *Fisheries (Scheme of Management—Marine Scalefish Fisheries) Regulations 1991* are revoked.

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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.

The *Fisheries Act 1982* was repealed by the *Fisheries Management Act 2007* on 1.12.2007. These regulations continued in force until they were later revoked as if they were regulations for the management of the fishery made under the *Fisheries Management Act 2007*: see Sch 1 cl 5(1) of that Act.

See *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*

Principal regulations and variations

Year	No	Reference	Commencement
2006	205	<i>Gazette 24.8.2006 p2941</i>	1.9.2006: r 2
2007	51	<i>Gazette 26.4.2007 p1410</i>	1.6.2007: r 2
2007	124	<i>Gazette 7.6.2007 p2477</i>	Pt 8 (r 10)—1.7.2007: r 2
2007	175	<i>Gazette 21.6.2007 p2698</i>	Pt 8 (rr 25—27)—21.6.2007: r 2
2007	282	<i>Gazette 29.11.2007 p4480</i>	1.12.2007: r 2

Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.6.2007</i>
r 3		
r 3(1)		
domestic partner	inserted by 51/2007 r 19(1)	1.6.2007
spouse	substituted by 51/2007 r 19(2)	1.6.2007
r 7		
r 7(6)	substituted by 175/2007 r 25(1)	21.6.2007
r 7(8)	varied by 175/2007 r 25(2)	21.6.2007
r 10	varied by 51/2007 r 20(1), (2)	1.6.2007
Sch 2	substituted by 175/2007 r 26 varied by 124/2007 r 10(1), (2)	21.6.2007 1.7.2007

Transitional etc provisions associated with regulations or variations

Fisheries (Fees No 2) Variation Regulations 2007 (No 175 of 2007)

27—Transitional provision

- (1) A fee prescribed by Schedule 2 of the principal regulations as substituted by this Part applies in relation to the licence period commencing on 1 July 2007.
- (2) Despite regulation 26, a fee prescribed by Schedule 2 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to the licence period that commenced on 1 July 2006.

Historical versions

1.6.2007

21.6.2007 (electronic only)