

South Australia

Fisheries (Scheme of Management—Prawn Fisheries) Regulations 2006

under the *Fisheries Act 1982*

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Schedule 1—Fish prescribed for prawn fisheries

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Legislative history

1—Short title

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

2—Commencement

These regulations will come into operation on 1 September 2006.

3—Interpretation

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

Act means the *Fisheries Act 1982*;

continuous brake power rating has the same meaning as in the *Fisheries (General) Regulations 2000*;

Corporations Act means the *Corporations Act 2001* of the Commonwealth;

current company extract means a document prepared by the Australian Securities and Investment Commission from its national database kept under the Corporations Act that contains current details of the following in relation to a company:

- (a) the company's name;
- (b) the address of the company's registered office;
- (c) the date of registration of the company;
- (d) the State or Territory in which the company is taken to be registered under the Corporations Act;
- (e) the company's Australian Company Number;
- (f) whether the company is a proprietary company or a public company;
- (g) the full name of each director of the company;
- (h) the full name of each secretary (if any) of the company;

fishing period, in relation to a prawn fishery, means a period during which it is not unlawful to engage in a fishing activity of a class that constitutes the fishery by virtue of a declaration under section 43 of the Act;

Gulf St. Vincent means the waters within the area bounded by a line commencing at the intersection of the southern shore of Yorke Peninsula at high water mark with the meridian of longitude 137°E, then proceeding due south along that meridian to its intersection with the northern shore of Kangaroo Island at the high water mark, then easterly along that shore at the high water mark to Cape St. Alban (position latitude 35°48.7'S, longitude 138°07.4'E), then in a direction of 030°T to Porpoise Head on the southern shore of Fleurieu Peninsula (position latitude 35°39.6'S, longitude 138°13.6'E), then along the high water mark of the eastern and western shoreline of Gulf St. Vincent back to the point of commencement;

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

overall length, in relation to a boat, means the horizontal distance between—

- (a) a perpendicular dropped from the extremity of the bow of the boat or, if a fixture or structure attached to the bow projects beyond the bow, from the extremity of that fixture or structure; and
- (b) a perpendicular dropped from the extremity of the stern of the boat or, if a fixture or structure attached to the stern projects beyond the stern, from the extremity of that fixture or structure;

prawn means western king prawn (*Penaeus latisulcatus*);

prawn fishery means—

- (a) the Gulf St. Vincent Prawn Fishery; or
- (b) the Spencer Gulf Prawn Fishery; or
- (c) the West Coast Prawn Fishery,

constituted by these regulations;

revoked regulations means the regulations revoked by Schedule 3;

SARDI means the South Australian Research and Development Institute;

Spencer Gulf means the waters of Spencer Gulf that are north of the geodesic joining Cape Catastrophe, Eyre Peninsula and Cape Spencer, Yorke Peninsula;

surveyed length, in relation to a registered boat, means the length as shown on the certificate of survey issued under the *Harbors and Navigation Act 1993*;

West Coast waters means the waters east of the meridian of longitude 131°E to the meridian of longitude 137°E, but excluding the waters of Spencer Gulf that are north of the geodesic joining Cape Catastrophe, Eyre Peninsula and Cape Spencer, Yorke Peninsula.

- (2) In these regulations, unless the contrary intention appears, **company**, **director**, **proprietary company** and **public company** have the same respective meanings as in the Corporations Act.
- (3) In these regulations, a reference to the **taking of 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 Gulf St. Vincent Prawn Fishery;
 - (b) the Spencer Gulf Prawn Fishery;
 - (c) the West Coast Prawn Fishery.
- (2) The Gulf St. Vincent Prawn Fishery consists of—
 - (a) the taking of prawns in Gulf St. Vincent; and
 - (b) the taking of fish specified in Schedule 1 Part 1 in Gulf St. Vincent where the fish are taken at the same time in the same net incidentally to the taking of prawns.
- (3) The Spencer Gulf Prawn Fishery consists of—
 - (a) the taking of prawns in Spencer Gulf; and
 - (b) the taking of fish specified in Schedule 1 Part 1 in Spencer Gulf where the fish are taken at the same time in the same net incidentally to the taking of prawns.
- (4) The West Coast Waters Prawn Fishery consists of—
 - (a) the taking of prawns in the West Coast waters; and

- (b) the taking of fish specified in Schedule 1 Part 2 in the West Coast waters where the fish are taken at the same time in the same net incidentally to the taking of prawns.

5—No further licences to be granted

- (1) The licences in respect of the Gulf St. Vincent Prawn Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Gulf St. Vincent Prawn Fishery subject to the provisions of the Act, the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987* and these regulations, and no other licences may be granted in respect of the Fishery.
- (2) The licences in respect of the Spencer Gulf Prawn Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the Spencer Gulf Prawn Fishery subject to the Act and these regulations, and no other licences may be granted in respect of the Fishery.
- (3) The licences in respect of the West Coast Prawn Fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the West Coast Prawn Fishery subject to the Act and these regulations, and no other licences may be granted in respect of the Fishery.

6—Expiry of licence

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

7—Renewal of licence

- (1) A licence in respect of a prawn 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 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 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) The Director must not renew a licence unless the applicant has paid—
 - (a) —
 - (i) the renewal fee specified in Schedule 2 less \$90; or
 - (ii) the first instalment of the renewal fee specified in Schedule 2, in accordance with subregulation (7); and

- (b) the amount of any previous renewal fee remaining payable in respect of the licence, together with any additional amount payable for late payment of an instalment of the renewal fee.
- (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 amount 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 prawn 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 licence

- (1) A licence in respect of a prawn fishery may be transferred with the consent of the Director.
- (2) 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 signed by the applicants; and
 - (d) be verified by statutory declaration; and
 - (e) be accompanied by—
 - (i) the licence to be transferred; and
 - (ii) a form of return as required by regulation 13 completed by the holder of the licence up to the date of application; and
 - (iii) if the transferee is a company—a current company extract relating to the transferee issued not more than 1 month immediately preceding the date of application; and
 - (iv) the application fee specified in Schedule 2.

- (3) Before consenting to the transfer of a licence, the Director must be satisfied—
- (a) that the licence to be transferred has not been suspended; and
 - (b) 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
 - (c) that the transfer is to 1 person only; and
 - (d) that the transferee is—
 - (i) a natural person of at least 15 years of age; or
 - (ii) a company; and
 - (e) that no conviction for an offence involving a breach of legislation relating to fishing has, within the period of 3 years preceding the date of the application, been recorded in the State or elsewhere in Australia against the transferee or, if the transferee is a company, against a director of the company; 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 or, if the transferee is a company, against a director of the company; and
 - (g) if a 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 over exploit fishery resources; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

10—Registration of boats

- (1) An application to register a boat to be used pursuant to a licence in respect of a prawn 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—
- (a) the applicant holds a licence in respect of the fishery; and
 - (b) no other boat is registered by the endorsement of the applicant's licence in respect of the fishery; and

- (c) the boat has—
 - (i) an overall length not exceeding 22 metres; and
 - (ii) a main engine the continuous brake power rating of which does not exceed 272 kW.

11—Registration of masters

An application to register a person as the master of a boat used pursuant to a licence in respect of a prawn 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.

12—Revocation of registration

- (1) The Director may, on application by the holder of a licence in respect of a prawn 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.

13—Returns

- (1) The holder of a licence in respect of a prawn 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) The holder of a licence must—
 - (a) make a copy of each return he or she completes under this regulation before the return is sent or delivered to the Executive Director of SARDI; and

- (b) retain a copy for the period of 1 year from the last day of the month to which the return relates.

Maximum penalty: \$4 000.

Schedule 1—Fish prescribed for prawn fisheries

Part 1—Fish prescribed for Spencer Gulf & Gulf St. Vincent Prawn Fisheries

Crustaceans

Lobster, slipper (*Ibacus* spp.)

Molluscs

Squid, calamary (*Sepioteuthis australis*)

Part 2—Fish prescribed for West Coast Prawn Fishery

Crustaceans

Lobster, slipper (*Ibacus* spp.)

Molluscs

Octopus (*Octopus* spp.)

Scallop (Family Pectinidae)

Squid, arrow (*Nototodarus gouldii*)

Squid, calamary (*Sepioteuthis australis*)

Schedule 2—Fees

- | | | |
|---|---------------------------------------------------------------------------------------|-------------|
| 1 | On application for the renewal of a licence in respect of— | |
| | (a) the Gulf St. Vincent Prawn Fishery | \$25 715.00 |
| | (b) the Spencer Gulf Prawn Fishery | \$23 053.00 |
| | (c) the West Coast Prawn Fishery | \$4 969.00 |
| 2 | On application for consent to the transfer of a licence in respect of a prawn fishery | \$311.00 |

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

The *Fisheries (Scheme of Management—Prawn Fisheries) 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	206	<i>Gazette 24.8.2006 p2961</i>	1.9.2006: r 2
2007	124	<i>Gazette 7.6.2007 p2477</i>	1.7.2007: r 2