

South Australia

Fisheries (Scheme of Management—River Fishery) Regulations 1991

under the *Fisheries Act 1982*

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1—Short title

These regulations may be cited as the *Fisheries (Scheme of Management—River Fishery) Regulations 1991*.

4—Interpretation

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

the Act means the *Fisheries Act 1982*;

the fishery means the River Fishery as constituted by these regulations;

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

River Murray means all waters of the River Murray, including its anabranches, tributaries and lagoons, situated upstream of the punt that services the main road joining the township of Wellington to the township of Wellington East;

the revoked regulations means the regulations revoked by regulation 3;

SARDI means the South Australian Research and Development Institute.

- (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.

Note—

For definition of divisional penalties (and divisional expiation fees) see Appendix.

5—Constitution of the fishery

- (1) The River Fishery is constituted.
- (2) The River Fishery consists of the taking of fish specified in the Schedule in the River Murray.

6—Conditions limiting certain fishing activities to specified areas

The Director may impose a condition of a licence in respect of the fishery limiting to specified areas of the River Murray the fishing activities that may be engaged in pursuant to the licence.

7—No further licences are to be granted

The licences in respect of the fishery in force under the revoked regulations immediately before the commencement of these regulations continue in force as licences in respect of the fishery subject to the provisions of the Act and these regulations, and no other licence may be granted in respect of the fishery.

8—Expiry of licences

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

9—Renewal of licences

- (1) A licence in respect of the 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 the fishery must—
- (a) be made by the holder of the licence or, if the licence has expired, by the person who last held the licence; and
 - (b) be made in writing in a form approved by the Director and signed by the applicant; and
 - (c) be accompanied by a fee of \$200.
- (3) Where 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.
- (4) Where 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.
- (5) The Director must return any renewal fee that accompanied the application if the application is not successful.

10—Refund on surrender of licence

Where a licence in respect of the fishery is surrendered, the Director must, on application by the former licensee, 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.

11—Registration of boats

- (1) An application to register a boat to be used pursuant to a licence in respect of the fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.
- (2) Before granting registration of the boat the Director must be satisfied that the applicant is the holder of a licence in respect of the fishery.

12—Registration as master

An application for registration of a person as the master of a boat used pursuant to a licence in respect of the fishery must be made in writing in a form approved by the Director and be accompanied by the applicant's licence in respect of the fishery.

13—Revocation of registration

- (1) The Director may, on application by the holder of a licence in respect of the fishery, revoke any registration effected by endorsement of the licence.
- (2) An application for revocation of any registration must be made in writing in a form approved by the Director and be accompanied by the licence on which the registration is endorsed.

14—Use of agents in fishing activities on the shore

The holder of a licence in respect of the fishery must not cause or permit—

- (a) a person to be engaged on the shore as his or her agent in a fishing activity of a class that constitutes the fishery unless—
 - (i) the holder of the licence is at the same time also engaged on the shore in a fishing activity of a class that constitutes the fishery; and
 - (ii) the holder of the licence and the other persons remain, while so engaged, within 500 metres of each other; or
- (b) more than two other persons to be engaged at the same time on the shore as his or her agents in a fishing activity of a class that constitutes the fishery.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

15—Furnishing of returns

- (1) The holder of a licence in respect of the fishery must—
 - (a) fill out 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 Chief Executive Officer 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 Chief Executive Officer of SARDI within 15 days of the end of the month to which it relates.

Penalty: Division 6 fine.

Expiation fee: Division 9 fee.

- (2) Where the holder of a licence in respect of the fishery 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.

16—Copies of returns must be made

The holder of a licence in respect of the fishery must—

- (a) make a copy of each return that he or she fills out pursuant to these regulations before the return is sent or delivered to the Chief Executive Officer of SARDI; and
- (b) retain the copy for the period of one year from the last day of the month to which the return relates.

Penalty: Division 6 fine.

Schedule—Fish prescribed for the River Fishery

Scalefish

Bony bream (*Nematalosa erebi*)

Carp (All species) (Family Cyprinidae)

Perch, redfin (*Perca fluviatilis*)

Trout, brown (*Salmo trutta*)

Trout, rainbow (*Oncorhynchus mykiss*)

All other non-native fish

Crustaceans

Yabbie (*Cherax destructor*)

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Formerly

Scheme of Management (River Fishery) Regulations 1991

Revocation of regulations

The *Fisheries (Scheme of Management—River Fishery) Regulations 1991* were revoked by Sch 3 of the *Fisheries (Scheme of Management—River Fishery) Regulations 2006* on 1.9.2006.

Legislation revoked by principal regulations

The *Fisheries (Scheme of Management—River Fishery) Regulations 1991* revoked the following:

Scheme of Management (River Fishery) Regulations 1984

Principal regulations and variations

Year	No	Reference	Commencement
1991	113	<i>Gazette 27.6.1991 p2197</i>	27.6.1991: r 2
1991	182	<i>Gazette 22.8.1991 p637</i>	22.8.1991: r 2
1992	104	<i>Gazette 25.6.1992 p1925</i>	25.6.1992: r 2
1993	127	<i>Gazette 24.6.1993 p2075</i>	24.6.1993: r 2
1994	9	<i>Gazette 10.3.1994 p702</i>	10.7.1994: r 2
1994	98	<i>Gazette 23.6.1994 p1814</i>	23.6.1994: r 2
1995	145	<i>Gazette 29.6.1995 p3157</i>	29.6.1995: r 2
1996	155	<i>Gazette 20.6.1996 p3012</i>	20.6.1996: r 2
1997	126	<i>Gazette 13.5.1997 p1954</i>	13.5.1997: r 2
1997	181	<i>Gazette 7.8.1997 p317</i>	7.8.1997: r 2
1998	135	<i>Gazette 11.6.1998 p2546</i>	11.6.1998: r 2
1999	137	<i>Gazette 1.7.1999 p43</i>	1.7.1999: r 2
2000	138	<i>Gazette 22.6.2000 p3364</i>	22.6.2000: r 2
2001	143	<i>Gazette 28.6.2001 p2451</i>	28.6.2001: r 2
2002	47	<i>Gazette 14.6.2002 p2153</i>	14.6.2002: r 2
2002	193	<i>Gazette 17.10.2002 p3871</i>	1.7.2003: r 2
2003	141	<i>Gazette 5.6.2003 p2407</i>	Pt 10 (r 27)—5.6.2003: r 2
2003	161	<i>Gazette 3.7.2003 p2883</i>	3.7.2003: r 2
2004	9	<i>Gazette 19.2.2004 p535</i>	Pt 9 (rr 45—48)—19.2.2004: r 2

Provisions varied

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

Provision	How varied	Commencement
r 1	substituted by 141/2003 r 27	5.6.2003
r 2	<i>omitted under the Legislation Revision and Publication Act 2002</i>	19.2.2004
r 3	<i>omitted under the Legislation Revision and Publication Act 2002</i>	19.2.2004
r 4		
r 4(1)		
licence period	inserted by 145/1995 r 3	29.6.1995
	substituted by 181/1997 r 3	7.8.1997
SARDI	inserted by 127/1993 r 3	24.6.1993
<i>shrimp</i>	<i>deleted by 161/2003 r 4</i>	3.7.2003
<i>shrimp trap</i>	<i>varied by 47/2002 r 29</i>	14.6.2002
	<i>deleted by 161/2003 r 4</i>	3.7.2003
<i>yabbie pot</i>	<i>varied by 47/2002 r 29</i>	14.6.2002
	<i>deleted by 161/2003 r 4</i>	3.7.2003
r 5		
r 5(2)	substituted by 161/2003 r 5	3.7.2003
r 6	substituted by 161/2003 r 6	3.7.2003
r 8	substituted by 145/1995 r 4	29.6.1995
	substituted by 181/1997 r 4	7.8.1997
r 9		
r 9(1)	varied by 145/1995 r 5(a)	29.6.1995
r 9(2)	substituted by 182/1991 r 2(a)	22.8.1991
	varied by 161/2003 r 7(1)	3.7.2003
r 9(5) before substitution by 161/2003	inserted by 182/1991 r 2(b)	22.8.1991
	varied by 104/1992 r 3	25.6.1992
	varied by 127/1993 r 4	24.6.1993
	varied by 98/1994 r 3	23.6.1994
	varied by 145/1995 r 5(b)	29.6.1995
	varied by 155/1996 r 3	20.6.1996
	varied by 126/1997 r 3	13.5.1997
	varied by 135/1998 r 3(a)	11.6.1998
	varied by 137/1999 r 3	1.7.1999
	varied by 138/2000 r 3	22.6.2000
	varied by 143/2001 r 3(a), (b)	28.6.2001
	varied by 47/2002 r 30	14.6.2002
r 9(5)	substituted by 161/2003 r 7(2)	3.7.2003
r 9(6)	<i>inserted by 182/1991 r 2(b)</i>	22.8.1991

	<i>substituted by 145/1995 r 5(c)</i>	29.6.1995
	<i>substituted by 135/1998 r 3(b)</i>	11.6.1998
	<i>deleted by 161/2003 r 7(2)</i>	3.7.2003
r 9(7)	<i>inserted by 182/1991 r 2(b)</i>	22.8.1991
	<i>substituted by 143/2001 r 3(c)</i>	28.6.2001
	<i>deleted by 161/2003 r 7(2)</i>	3.7.2003
r 9(8)	<i>inserted by 182/1991 r 2(b)</i>	22.8.1991
	<i>deleted by 161/2003 r 7(2)</i>	3.7.2003
r 10	<i>substituted by 145/1995 r 6</i>	29.6.1995
r 10A	<i>inserted by 181/1997 r 5</i>	7.8.1997
	<i>varied by 137/1999 r 4</i>	1.7.1999
	<i>revoked by 161/2003 r 8</i>	3.7.2003
r 11		
r 11(1)	<i>varied by 9/2004 r 45</i>	19.2.2004
r 12	<i>substituted by 161/2003 r 9</i>	3.7.2003
	<i>varied by 9/2004 r 46</i>	19.2.2004
r 14	<i>varied by 9/2004 r 47</i>	19.2.2004
r 15		
r 15(1)	<i>varied by 104/1992 r 4</i>	25.6.1992
	<i>varied by 127/1993 r 5</i>	24.6.1993
	<i>varied by 9/2004 r 48</i>	19.2.2004
r 16	<i>varied by 127/1993 r 6</i>	24.6.1993
Sch 1	<i>varied by 9/1994 r 3</i>	10.7.1994
	<i>substituted by 181/1997 r 6</i>	7.8.1997
	<i>varied by 193/2002 r 3</i>	1.7.2003
	<i>deleted by 161/2003 r 10</i>	3.7.2003
Sch 2	<i>revoked by 104/1992 r 5</i>	25.6.1992
	<i>inserted by 181/1997 r 6</i>	7.8.1997
	<i>revoked by 161/2003 r 10</i>	3.7.2003
Sch	<i>inserted by 161/2003 r 10</i>	3.7.2003

Transitional etc provisions associated with regulations or variations

No 104 of 1992

6—Transitional provision

- (1) The licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence year commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 3, the licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year that commenced before the commencement of these regulations.

- (3) In this regulation—

licence year means the period of 12 months from 1 September in any year.

No 127 of 1993

7—Transitional provision

- (1) The licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence year commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 4, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year that commenced before the commencement of these regulations.
- (3) In this regulation—

licence year means the period of 12 months from 1 October in any year.

No 98 of 1994

4—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence year commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 3, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence year that commenced before the commencement of these regulations.
- (3) In this regulation—

licence year means the period of 12 months from 1 September in any year.

No 145 of 1995

7—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Notwithstanding regulation 5, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period commencing before the commencement of these regulations.
- (3) In this regulation—

licence period as the same meaning as in the principal regulations as varied by these regulations.

No 126 of 1997

4—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 3, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 135 of 1998

4—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 3, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 137 of 1999

5—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 3, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 138 of 2000

4—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.

- (2) Despite regulation 3, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

No 143 of 2001

4—Transitional provision

- (1) A licence renewal fee prescribed by regulation 9 of the principal regulations as varied by these regulations applies in relation to a licence period commencing after the commencement of these regulations.
- (2) Despite regulation 3, a licence renewal fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of these regulations continues to apply in relation to a licence period that commenced before the commencement of these regulations.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

Fisheries (Variation of Schemes of Management) Regulations 2002 (No 47 of 2002)

31—Transitional provision

- (1) A fee prescribed by regulation 9 of the principal regulations as varied by this Part applies in relation to a licence period commencing after the commencement of this Part.
- (2) Despite regulation 30, a fee prescribed by regulation 9 of the principal regulations as in force immediately before the commencement of this Part continues to apply in relation to a licence period that commenced before the commencement of this Part.
- (3) In this regulation—
licence period has the same meaning as in the principal regulations.

Appendix—Divisional penalties and expiation fees

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

Division	Maximum imprisonment	Maximum fine	Expiation fee
1	15 years	\$60 000	—
2	10 years	\$40 000	—
3	7 years	\$30 000	—
4	4 years	\$15 000	—
5	2 years	\$8 000	—
6	1 year	\$4 000	\$300

revoked—19.2.2004 to 31.8.2006—Fisheries (Scheme of Management—River Fishery)
Regulations 1991
Divisional penalties and expiation fees—Appendix

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

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