

South Australia

# Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013

under the *Fisheries Management Act 2007*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013*.

### 3—Interpretation

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

*Act* means the *Fisheries Management Act 2007*;

*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;

**Department** means the administrative unit of the Public Service responsible for assisting a Minister in the administration of the Act;

**fishery** means the Miscellaneous Developmental Fishery constituted by these regulations;

**prescribed fishery regulations** means any of the following regulations:

- (a) the *Fisheries Management (Abalone Fisheries) Regulations 2017*;
- (b) the *Fisheries Management (Blue Crab Fishery) Regulations 2013*;
- (c) the *Fisheries Management (Charter Boat Fishery) Regulations 2016*;
- (d) the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;
- (e) the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2017*;
- (f) the *Fisheries Management (Prawn Fisheries) Regulations 2017*;
- (g) the *Fisheries Management (River Fishery) Regulations 2017*;
- (h) the *Fisheries Management (Rock Lobster Fisheries) Regulations 2017*;

**waters of the State** means all the waters to which the Act applies.

- (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 aquatic resources** includes a reference to an act preparatory to, or involved in, the taking of the aquatic resources.

#### 4—Constitution of fishery

- (1) The Miscellaneous Developmental Fishery is constituted.
- (2) The Miscellaneous Developmental Fishery consists of the taking of aquatic resources in the waters of the State but does not include a fishing activity of a class constituted as a fishery by prescribed fishery regulations.
- (3) The Miscellaneous Developmental Fishery is declared to be a developmental fishery for the purposes of the Act.

#### 5—Issue of permits

- (1) The Minister may issue permits in respect of the fishery.
- (2) Permits in respect of the fishery will be of the following classes:
  - (a) exploratory permits;
  - (b) developmental permits.
- (3) The Minister may only grant an exploratory permit in respect of the fishery if satisfied that the applicant is a natural person of at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery.

- (4) The Minister may only grant a developmental permit in respect of the fishery if satisfied as to the following:
- (a) if the applicant is a natural person—that the person is at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery;
  - (b) if the applicant is a company—that each director of the company is a fit and proper person to be a director of a company that holds a permit in respect of the fishery.

### **6—Power of Minister to limit fishing activities**

The Minister may impose conditions on a permit in respect of the fishery limiting the class of fishing activities that may be engaged in under the permit.

### **7—Registration**

An application by the holder of a permit in respect of the fishery—

- (a) to register a boat or device for use under the permit; or
  - (b) to register a person as a master of a boat that may be used under the permit,
- must be accompanied by the documents specified in the application form.

### **8—Revocation of registration**

- (1) The Minister may, on application by the holder of a permit in respect of the fishery, revoke the registration of—
- (a) a boat or device used under the permit; or
  - (b) a person as a master of a boat that may be used under the permit.
- (2) An application for revocation of registration must—
- (a) be made in a manner and form approved by the Minister; and
  - (b) be completed in accordance with the instructions contained in the form; and
  - (c) be accompanied by the documents specified in the application form.

### **9—Transfer of permits**

- (1) Exploratory permits are not transferable.
- (2) Developmental permits are transferable.
- (3) An application for consent to the transfer of a developmental permit must be accompanied by—
- (a) the permit to be transferred; and
  - (b) a form of return as required by regulation 10 completed by the holder of the permit up to the date of application; and
  - (c) 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.

- (4) The Minister may only consent to the transfer of a developmental permit if satisfied as to the following:
- (a) that any fees or other amounts payable in relation to the permit under the Act have been paid in full;
  - (b) that the permit to be transferred has not been suspended;
  - (c) that no proceedings alleging an offence against the Act or the repealed Act are pending or likely to be commenced in the State against the holder of the permit;
  - (d) if the transferee is a natural person—that the transferee is at least 15 years of age and is a fit and proper person to hold a permit in respect of the fishery;
  - (e) if the transferee is a company—that each director of the company is a fit and proper person to be a director of a company that holds a permit in respect of the fishery.

### **10—Periodic returns**

- (1) The holder of a permit in respect of the fishery must provide the Department with such returns in the manner and form, at such times and containing such information, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$500.

- (2) The holder of a permit in respect of the fishery must keep a record of each return that the permit holder provides to the Department under this regulation in such manner, and for such period, as determined by the Minister.

Maximum penalty: \$5 000.

Expiation fee: \$500.

### **11—Provision relating to keeping of records**

A person required under these regulations to keep a record for a period of time must ensure that the record—

- (a) is maintained in a good condition and is legible; and
- (b) is kept so that it is readily accessible; and
- (c) is produced for inspection by a fisheries officer on request.

Maximum penalty: \$2 500.

Expiation fee: \$210.

### **12—Minister's determinations**

- (1) The Minister may make a determination for the purposes of a regulation.
- (2) A determination may—
- (a) be of general or limited application; and
  - (b) make different provision according to the persons, things or circumstances to which it is expressed to apply.

- (3) If the Minister makes a determination for the purposes of a regulation, notice of the determination—
  - (a) must be published on the Department's website; and
  - (b) may also be published in the Gazette.
- (4) As soon as practicable after a determination of the Minister is made, a notice in writing setting out the date on which notice of the determination is published and the terms of the determination must be given to the persons bound by the determination in a manner and form that, in the opinion of the Minister, will bring the determination to the attention of those persons.
- (5) The Minister may, by further determination, vary or revoke a determination.

## Legislative history

### Notes

- 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](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2013	193	<i>Gazette 1.8.2013 p3331</i>	1.12.2013: r 2
2016	236	<i>Gazette 6.10.2016 p3962</i>	6.2.2017: r 2
<b>2017</b>	<b>230</b>	<b><i>Gazette 8.8.2017 p3418</i></b>	<b>15.1.2018: r 2</b>

### Provisions varied

New entries appear in bold.

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>6.2.2017</i>
r 3		
r 3(1)		
prescribed fishery regulations	varied by 236/2016 r 4	6.2.2017
<b>Department</b>	<b>inserted by 230/2017 r 4(1)</b>	<b>15.1.2018</b>
<b>prescribed fishery regulations</b>	<b>substituted by 230/2017 r 4(2)</b>	<b>15.1.2018</b>
r 8		
r 8(2)	varied by 230/2017 r 5	15.1.2018
rr 10 and 11	substituted by 230/2017 r 6	15.1.2018
r 12	inserted by 230/2017 r 6	15.1.2018

### Historical versions

6.2.2017