

South Australia

# **Fisheries Management (Fish Processors) Regulations 2017**

under the *Fisheries Management Act 2007*

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Schedule 1—Revocation of *Fisheries Management (Fish Processors) Regulations 2007*

Legislative history

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### **1—Short title**

These regulations may be cited as the *Fisheries Management (Fish Processors) Regulations 2017*.

### **2—Commencement**

These regulations will come into operation on 15 January 2018.

### **3—Interpretation**

In these regulations, unless the contrary intention appears—

*abalone* means Abalone (*Haliotis* spp);

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

*AFMA* means the Australian Fisheries Management Authority established by the *Fisheries Administration Act 1991* of the Commonwealth;

*blue crab* has the same meaning as in the *Fisheries Management (Blue Crab Fishery) Regulations 2013*;

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

*giant crab* means Giant Crab (*Pseudocarcinus gigas*);

*Miscellaneous Broodstock and Seedstock Fishery* has the same meaning as in the *Fisheries Management (Miscellaneous Broodstock and Seedstock Fishery) Regulations 2013*;

*pipi* means Pipi (*Donax* spp);

*rock lobster* means Southern Rock Lobster (*Jasus edwardsii*);

*sardine* means Australian Sardine (*Sardinops sagax*);

*vongole* means any mollusc of the genus *Katelysia*;

*tuna* means Southern Bluefin Tuna (*Thunnus maccoyii*);

*undersize fish* has the same meaning as in the *Fisheries Management (General) Regulations 2017*.

#### **4—Prescribed classes of persons not required to be registered as fish processors**

For the purposes of section 62(2)(c) of the Act, the following persons are not required to be registered as fish processors:

- (a) persons who buy and sell aquatic resources without ever taking physical possession of the aquatic resources;
- (b) persons who sell aquatic resources that are taken pursuant to a permit in respect of the Miscellaneous Broodstock and Seedstock Fishery.

#### **5—Prescribed grounds for refusing application for registration as fish processor**

For the purposes of section 64(3)(b) of the Act, the Minister may refuse to grant an application for registration as a fish processor if the Minister is satisfied that, if registration of the kind to which the application relates were granted, there would be a risk of harm (including disease) to aquatic resources or the local ecological environment.

#### **6—Registration of additional premises, place, boat or vehicle**

- (1) If a registered fish processor proposes to use for, or in connection with, the processing, storage, transport of, or other dealing with, aquatic resources any premises, place, boat or vehicle that is not specified in the fish processor's certificate of registration, the fish processor must lodge with the Minister an application to have the additional premises, place, boat or vehicle so specified.
- (2) An application under subregulation (1) 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 prescribed fee.

#### **7—Duty to check for undersize fish**

- (1) A registered fish processor must, as soon as possible after a consignment of aquatic resources is delivered to the fish processor, take all reasonable steps to check for the presence of undersize fish in the consignment.  
Maximum penalty: \$2 500.
- (2) If a registered fish processor finds undersize fish in a consignment, the fish processor must immediately render the undersize fish unsuitable for sale or consumption and dispose of them as waste material.  
Maximum penalty: \$2 500.
- (3) If, in proceedings for an offence against subregulation (1), it is proved that undersize fish were found in the possession of a registered fish processor, the fish processor will be taken, in the absence of proof to the contrary, to have failed to comply with subregulation (1).

#### **8—Requirements relating to processing of abalone**

- (1) A registered fish processor must comply with the following provisions in respect of abalone purchased or obtained by, or consigned or delivered to, the fish processor—
  - (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the abalone as determined by the Minister;
  - (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the fish processor must ensure that abalone purchased or obtained by, or consigned or delivered to, the fish processor are—
    - (i) accompanied by such records and information; and
    - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,  
in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.

## 9—Requirements relating to processing of vongole

- (1) A registered fish processor must comply with the following provisions in respect of vongole purchased or obtained by, or consigned or delivered to, the fish processor—
  - (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the vongole as determined by the Minister;
  - (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the fish processor must ensure that vongole purchased or obtained by, or consigned or delivered to, to the fish processor are—
    - (i) accompanied by such information; and
    - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

## 10—Requirements relating to processing of pipi

- (1) A registered fish processor must comply with the following provisions in respect of pipi purchased or obtained by, or consigned or delivered to, the fish processor—
  - (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the pipi as determined by the Minister;
  - (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the fish processor must ensure that pipi purchased or obtained by, or consigned or delivered to, the fish processor are—
    - (i) accompanied by such information; and
    - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,in accordance with the requirements (if any) as determined by the Minister.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

### **11—Requirements relating to processing of blue crab**

- (1) A registered fish processor must comply with the following provisions in respect of blue crab purchased or obtained by, or consigned or delivered to, the fish processor—

- (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the blue crab as determined by the Minister;
- (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
- (c) the fish processor must ensure that blue crab purchased or obtained by, or consigned or delivered to, the fish processor are—
  - (i) accompanied by such information; and
  - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,

in accordance with the requirements (if any) as determined by the Minister.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

### **12—Requirements relating to processing of giant crab**

- (1) A registered fish processor must comply with the following provisions in respect of giant crab purchased or obtained by, or consigned or delivered to, the fish processor—

- (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the giant crab as determined by the Minister;
- (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;

- (c) the fish processor must ensure that giant crab purchased or obtained by, or consigned or delivered to, the fish processor are—
  - (i) accompanied by such information; and
  - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.

### **13—Requirements relating to processing of sardines**

- (1) A registered fish processor must comply with the following provisions in respect of sardines purchased or obtained by, or consigned or delivered to, the fish processor—
  - (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the sardines as determined by the Minister;
  - (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the fish processor must ensure that sardines purchased or obtained by, or consigned or delivered to, the fish processor are—
    - (i) accompanied by such information; and
    - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.

#### **14—Requirements relating to processing of tuna**

- (1) A registered fish processor must comply with the following provisions in respect of tuna purchased or obtained by, or consigned or delivered to, the fish processor—
  - (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the tuna as determined by the Minister;
  - (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department or AFMA in the manner and form, and at such times, as determined by the Minister;
  - (c) the fish processor must ensure that tuna purchased or obtained by, or consigned or delivered to, the fish processor are—
    - (i) accompanied by such information; and
    - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,  
in accordance with the requirements (if any) as determined by the Minister.
- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.

#### **15—Requirements relating to processing of rock lobster**

- (1) A registered fish processor must comply with the following provisions in respect of rock lobster purchased or obtained by, or consigned or delivered to, the fish processor—
  - (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in respect of the rock lobster as determined by the Minister;
  - (b) the registered fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister;
  - (c) the fish processor must ensure that rock lobster purchased or obtained by, or consigned or delivered to, the fish processor are—
    - (i) accompanied by such information; and
    - (ii) weighed, stored, placed in containers, sealed, tagged, and sold, transported, delivered, consigned or otherwise disposed of or dealt with, at such places and at such times,  
in accordance with the requirements (if any) as determined by the Minister.

- (2) If a determination of the Minister made for the purposes of subregulation (1) is not complied with, the fish processor is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (3) The fish processor must keep records made under subregulation (1) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.

## **16—Periodic returns**

- (1) A registered fish processor must provide the Department with such returns in the manner and form, at such times and containing such information, as determined by the Minister.
- (2) A registered fish processor must keep a record of each return that the processor provides to the Department under this regulation in such manner, and for such period, as determined by the Minister.
- (3) The holder of a fishery authority or aquaculture licence is only required to comply with this regulation in relation to aquatic resources sold or delivered to an unregistered fish processor.
- (4) A person who contravenes or fails to comply with this regulation is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.

## **17—Records to be kept**

- (1) A fish processor must comply with the following provisions in relation to each of the premises, places, boats or vehicles used by the fish processor for, or in connection with, the processing, storage, transport of, or other dealing with, aquatic resources:
- (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in connection with the purchasing or obtaining, processing, storage or transport of, or dealing with, aquatic resources as determined by the Minister;
  - (b) the fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister.
- (2) A fish processor must comply with the following provisions in relation to each consignment or batch of aquatic resources received for storage, processing or transport, or other dealing with:
- (a) the fish processor must, in the manner and form, at such places and at such times, as determined by the Minister, record such information in connection with the receipt of the aquatic resources as determined by the Minister;
  - (b) the fish processor must provide the information recorded under paragraph (a) to the Department in the manner and form, and at such times, as determined by the Minister.

- (3) If a determination of the Minister made for the purposes of subregulation (1) or (2) is not complied with, the fish processor is guilty of an offence.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (4) A fish processor must keep records made under subregulation (1) or (2) in the manner, at such place, and for such period, as determined by the Minister.  
Maximum penalty: \$2 500.  
Expiation fee: \$210.
- (5) The holder of a fishery authority or aquaculture licence is not required to comply with this regulation in relation to aquatic resources taken or farmed under the fishery authority or aquaculture licence.

### **18—Provision relating to keeping of documents**

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

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

Maximum penalty: \$2 500.

Expiation fee: \$210.

### **19—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 they are expressed to apply.
- (3) If the Minister makes a determination, 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 made for the purposes of a regulation.

## **Schedule 1—Revocation of *Fisheries Management (Fish Processors) Regulations 2007***

The *Fisheries Management (Fish Processors) Regulations 2007* are repealed.

## **Legislative history**

### **Notes**

- 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**

Year	No	Reference	Commencement
2017	225	<i>Gazette 8.8.2017 p3264</i>	15.1.2018: r 2