

South Australia

Fisheries Management (Lakes and Coorong Fishery) Regulations 2009

under the *Fisheries Management Act 2007*

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Legislative history

1—Short title

These regulations may be cited as the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

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

Act means the *Fisheries Management Act 2007*;

cockle rake has the same meaning as in the *Fisheries Management (General) Regulations 2007*;

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

eligible licence means—

- (a) any of the following licences in respect of the fishery:
- (i) a licence numbered L03, L08 or L10;
 - (ii) any licence numbered in the range L12 to L20;
 - (iii) a licence numbered L26 or L27;
 - (iv) any licence numbered in the range L29 to L31;
 - (v) any licence numbered in the range L33 to L39;
 - (vi) a licence numbered L41, L43, L44, L45 or L47; or
- (b) a licence in respect of the Marine Scalefish Fishery numbered M236, M301 or M489;

fishery means the Lakes and Coorong Fishery constituted by these regulations;

Lakes and Coorong means the waters of the Coorong, Lake Alexandrina, Lake Albert, and the coastal waters adjacent to South Australia between the location on Mean High Water Springs closest to 35°31'23.50" South, 138°46'23.83" East (Beach Road, Goolwa) and the location on Mean High Water Springs closest to 36°49'34.59" South, 139°50'55.95" East (Kingston SE Jetty);

Marine Scalefish Fishery means the fishery of that name constituted by the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*;

Mean High Water Springs means the line representing the average of all high water observations at the time of spring tide over a period of 19 years;

mesh net has the same meaning as in the *Fisheries Management (General) Regulations 2007*, and includes a drum net as defined in those regulations;

mesh net entitlement means the maximum number of mesh nets that the holder of a licence in respect of the fishery may lawfully use at any 1 time for the purpose of taking aquatic resources under the licence;

pipi means Pipi (*Donax* spp);

pipi quota entitlement—see regulation 10;

yabby pot has the same meaning as in the *Fisheries Management (General) Regulations 2007*, and includes a drop net and hoop net as defined in those regulations;

yabby pot entitlement means the maximum number of yabby pots that the holder of a licence in respect of the fishery may lawfully use at any 1 time to take aquatic resources under the licence.

- (2) In these regulations—
- (a) 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; and
 - (b) all lines in spatial descriptions are geodesics based on the Geocentric Datum of Australia 1994 (*GDA94*) as defined in the Commonwealth of Australia Gazette GN35 of 6 September 1995, and all coordinates are expressed in terms of GDA94;
 - (c) common and scientific fish names are given according to *AS:SSA-001* Australian Fish Names Standard published by Seafood Services Australia in July 2007, as amended from time to time.

4—Constitution of fishery

- (1) The Lakes and Coorong Fishery is constituted.
- (2) The Lakes and Coorong Fishery consists of—
 - (a) the taking of aquatic resources specified in Schedule 1 in the Lakes and Coorong; and
 - (b) the taking of Razorfish (*Pinna bicolor*) in the Lakes and Coorong for the purpose of bait.

5—Maximum number of licences that may be in force

The maximum number of licences that may be in force in respect of the fishery is the number of licences in force in respect of the fishery immediately before the commencement of this regulation.

6—Transfer of licence

- (1) Licences in respect of the fishery are transferable.
- (2) An application for consent to the transfer of a licence must be accompanied by—
 - (a) the licence to be transferred; and
 - (b) a form of return as required by regulation 19 completed by the holder of the licence up to the date of application.
- (3) The Minister may only consent to the transfer of a licence if satisfied as to the following:
 - (a) that any fees or other amounts payable in relation to the licence under the Act or the repealed Act have been paid in full;
 - (b) that the licence 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 licence;
 - (d) that the transferee is a natural person of at least 15 years of age and is a fit and proper person to hold a licence in respect of the fishery;

- (e) if a boat registered for use under the licence is the subject of, or registered for use under, or is otherwise referred to in, a licence, permit, authority or other entitlement to take aquatic resources granted under a law of the Commonwealth or a corresponding law—
 - (i) that the entitlement is either to be transferred together with the licence to the transferee or to be surrendered on or before the transfer of the licence; or
 - (ii) that—
 - (A) the transfer of the licence separately from the entitlement is not likely to result in fishing activities that over-exploit or endanger the aquatic resources of the State; and
 - (B) the person or body that granted the entitlement concurs with the separate transfer of the licence.

7—Registration

- (1) An application by the holder of a licence in respect of the fishery—
 - (a) to register a boat or device for use under the licence; or
 - (b) to register a person as a master of a boat that may be used under the licence,must be accompanied by the documents specified in the application form.
- (2) A person other than the holder of a licence in respect of the fishery cannot be registered as a master of a boat used under the licence unless the holder of the licence is already registered as the master of a registered boat used under a fishery licence.

8—Revocation of registration

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

9—Mesh net and yabby pot entitlements

- (1) The Minister may impose or vary conditions on licences in respect of the fishery fixing mesh net entitlements as follows:
 - (a) a mesh net entitlement may be fixed by condition of a licence but must not exceed 100;
 - (b) if a person becomes the holder of a licence as a result of the transfer of the licence, the mesh net entitlement under that licence will be fixed at 25 subject to any subsequent variation under paragraph (c);

- (c) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery, the mesh net entitlement under 1 of the licences may be increased by 25, provided that—
 - (i) the other licence is first surrendered to the Minister; and
 - (ii) if the entitlement as so increased would exceed 100, the entitlement is fixed at 100 only.
- (2) The Minister may impose or vary conditions on licences in respect of the fishery fixing yabby pot entitlements as follows:
 - (a) a yabby pot entitlement may be fixed by condition of a licence but must not exceed 100;
 - (b) if a person becomes the holder of a licence as a result of the transfer of the licence, the yabby pot entitlement under that licence will be fixed at 50 subject to any subsequent variation under paragraph (c);
 - (c) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery, a yabby pot entitlement under 1 of the licences may be increased by a number equal to the yabby pot entitlement under the other licence, provided that—
 - (i) the other licence is first surrendered to the Minister; and
 - (ii) if the entitlement as so increased would exceed 100, the entitlement is fixed at 100 only.
- (3) An application to vary a mesh net or yabby pot entitlement must—
 - (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and be completed in accordance with the instructions contained in the form.

10—Individual pipi catch quota system

- (1) In this regulation—

pipi quota entitlement or ***quota entitlement***, in relation to an eligible licence in respect of the fishery, means the maximum number of kilograms of pipi that may be taken by the holder of the licence during a quota period, being the product of—

- (a) the unit entitlement under the licence; and
- (b) the unit value for the fishery and that quota period,

subject to any variation applying during that quota period;

quota period—a quota period for the fishery for the taking of pipi is a period commencing on 1 November in any year and ending on 31 May next;

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

unit value means the number of kilograms of pipi determined by the Minister to be the value of a pipi unit for the fishery and a quota period.

- (2) The Minister must determine the number of kilograms of pipi that is to be the value of a pipi unit for the fishery and each quota period.

- (3) The Minister may impose or vary conditions of eligible licences in respect of the fishery fixing pipi quota entitlements as follows:
- (a) for the quota period commencing on 1 November 2009, an eligible licence in respect of the fishery specified in column 1 of the table below may be allocated the number of pipi units for that quota period specified alongside in column 2:

Column 1	Column 2
Eligible licence	Number of pipi units
L03	9.47
L08	94.01
L10	40.75
L12	9.47
L13	9.47
L14	78.50
L15	32.75
L16	19.86
L17	9.47
L18	14.47
L19	9.47
L20	35.42
L26	9.47
L27	111.41
L29	45.00
L30	49.20
L31	14.77
L33	9.47
L34	9.47
L35	9.47
L36	35.33
L37	20.21
L38	20.67
L39	9.47
L41	21.28
L43	9.47
L44	60.11
L45	152.61
L47	23.12

- (b) for the quota period commencing on 1 November 2010 or 1 November in any subsequent year, an eligible licence in respect of the fishery may be allocated a number of pipi units for that quota period equal to the number of pipi units allocated to that licence immediately before the commencement of that quota period;
 - (c) on joint application made to the Minister by the holders of any 2 licences in respect of the fishery subject to a condition fixing a pipi quota entitlement, the conditions of the licences may be varied so as to increase the unit entitlement under 1 of the licences and decrease the unit entitlement under the other licence by a corresponding number of units;
 - (d) on joint application made to the Minister by the holder of a licence in respect of the fishery subject to a condition fixing a pipi quota entitlement (the *first licence*) and the holder of a licence in respect of the Marine Scalefish Fishery subject to such a condition (the *second licence*)—
 - (i) the conditions of the first licence may be varied so as to decrease the unit entitlement under that licence and the conditions of the second licence may be varied so as to increase the unit entitlement under that licence 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 and the conditions of the second licence may be varied so as to decrease the unit entitlement under that licence by a corresponding number of units;
 - (e) if the total catch of pipi taken by the holder of a licence in respect of the fishery during a quota period exceeded the pipi quota entitlement under the licence for that quota period, the conditions of the licence may be varied so as to decrease the pipi quota entitlement—
 - (i) if the catch exceeded the quota entitlement by not more than 500 kg—by 1 kg for each kilogram taken in excess of the quota entitlement; or
 - (ii) if the catch exceeded the quota entitlement by more than 500 kg but not more than 2 000 kg—by 2 kg for each kilogram taken in excess of the quota entitlement;
 - (f) if—
 - (i) the holder of a licence in respect of the fishery is convicted of an offence of contravening a condition of the licence fixing a pipi quota entitlement; and
 - (ii) the conduct constituting the offence involved the taking of more than 2 000 kg of pipi in excess of the quota entitlement,the conditions of the licence may be varied so as to decrease the pipi quota entitlement under the licence for 3 quota periods following the conviction by 1 kg for each kilogram taken in excess of the quota entitlement for the quota period during which the offence was committed.
- (4) If a variation of a unit entitlement is to have effect only for the balance of the quota period during which the variation is made, the variation must be expressed to have such effect.

- (5) An application to vary unit entitlements must—
- (a) be made in a manner and form approved by the Minister; and
 - (b) be signed by the applicants and completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the appropriate fee fixed in the *Fisheries Management (Fees) Regulations 2007*.

11—Use of agents in fishing activities

- (1) The holder of a licence in respect of the fishery, or the registered master of a registered boat used under 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 m of each other.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) The holder of a licence in respect of the fishery or the registered master of a registered boat used under such a licence must not cause or permit a person to be engaged on a boat 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 a registered boat 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 500 m of each other.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The holder of a licence in respect of the fishery or the registered master of a registered boat used under 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 (other than the taking of pipi under an eligible licence).

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) The holder of an eligible licence in respect of the fishery or the registered master of a registered boat used under such a licence must not cause or permit more than 4 persons to be engaged at the same time on the shore as agents of the holder of the licence in the taking of pipi under the licence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The Minister may impose conditions on an eligible licence in respect of the fishery limiting the fishing activities that may be engaged in by agents of the holder of the licence in connection with the taking of pipi under the licence.
- (6) The holder of a licence in respect of the fishery or the registered master of a registered boat used under such a licence must not cause or permit more than 2 persons to be engaged at the same time on a boat as agents of the holder of the licence in a fishing activity of a class that constitutes the fishery.
Maximum penalty: \$5 000.
Expiation fee: \$315.

12—Certain boats need not be registered

- (1) A boat used by a person as the agent of the holder of a licence in respect of the fishery in a fishing activity of a class that constitutes the fishery need not be registered if the boat is marked with the same distinguishing mark and in the same way as a registered boat.
- (2) An unregistered boat that is marked as referred to in subregulation (1) need not be in the charge of a registered master.

13—Restriction on taking of pipi

- (1) The holder of a licence in respect of the fishery must not take pipi for a commercial purpose unless the licence is subject to a condition fixing a pipi quota entitlement.
Maximum penalty: \$5 000.
Expiation fee: \$315.
- (2) The holder of a licence in respect of the fishery (other than an eligible licence) must not take pipi under the licence except for the purpose of bait to be used to take aquatic resources under the licence.
Maximum penalty: \$5 000.
Expiation fee: \$315.

14—Restriction on use of cockle rakes

The holder of an eligible licence in respect of the fishery must not use, or cause, suffer or permit the use of, more than 3 cockle rakes at any 1 time for the purpose of taking pipi under the licence.

Maximum penalty: \$5 000.
Expiation fee: \$315.

15—Information to be provided to Minister before pipi are taken

- (1) At least 1 hour before the commencement of fishing activities involving the taking of pipi under an eligible licence in respect of the fishery, the Minister must be informed by telephone of—
 - (a) the name of the person making the telephone call; and
 - (b) the date on which, and the time at which, the fishing activities are to be engaged in; and
 - (c) the location at which the fishing activities are to be engaged in; and

- (d) the number of the licence under which the fishing activities are to be engaged in; and
 - (e) the name of the holder of the licence; and
 - (f) if a registered boat is to be used for the purpose of engaging in the fishing activities—the name of the registered master of the boat.
- (2) If subregulation (1) is not complied with, the holder of the licence is guilty of an offence.
- Maximum penalty: \$5 000.
- Expiation fee: \$315.

16—Pipi to be landed within State

The holder of an eligible licence in respect of the fishery must ensure that all pipi taken under the licence are landed within the State.

Maximum penalty: \$5 000.

Expiation fee: \$315.

17—Disposal of pipi

The holder of an eligible licence in respect of the fishery must ensure that all pipi taken under the licence are delivered or consigned to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

18—Catch and disposal records—pipi

- (1) In this regulation—

approved container means a container approved by the Minister for the purposes of containing pipi;

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

G-CDR form means the form produced by the Department entitled *Pipi Cockle Catch and Disposal Record*.

- (2) The holder of an eligible licence in respect of the fishery or the registered master of a registered boat used under such a licence must comply with the following provisions in respect of pipi taken under the licence:
- (a) before the pipi are removed to a place that is 100 m or more above Mean High Water Springs of coastal waters, he or she must ensure that—
 - (i) the pipi are placed in an approved container and sealed with a tag issued by the Minister; and
 - (ii) a G-CDR form in respect of the pipi is completed; and
 - (iii) the original G-CDR form is placed in an envelope and secured to the container containing the pipi or, if there is more than 1 container containing the pipi, to 1 of those containers;

- (b) if a tag is damaged in the process of sealing a container—he or she must ensure that the damaged tag is threaded onto a replacement tag used to seal the container and that the number of the replacement tag is recorded on the G-CDR form;
- (c) if a tag is lost—he or she must ensure that the Minister is immediately notified of the loss;
- (d) he or she must ensure—
 - (i) that the G-CDR form is posted to the Minister within 48 hours of its completion; or
 - (ii) if, within 48 hours of completion of the G-CDR form, the form is transmitted by fax to a fax number nominated by the Minister for the purposes of this subparagraph—that the G-CDR form is posted to the Minister within 4 days of its completion;
- (e) he or she must ensure that G-CDR forms are completed in consecutive order and that all forms in a G-CDR book are completed before a new G-CDR book is used;
- (f) he or she must ensure that the sealed containers containing the pipi are not opened before the pipi are delivered or consigned to a registered fish processor.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (3) The holder of an eligible licence in respect of the fishery must ensure that if a G-CDR form completed in respect of pipi taken under the licence is cancelled, all copies of the form are marked with the word "cancelled" and the original copy of the form is delivered to the Minister within 24 hours of the cancellation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (4) The holder of an eligible licence in respect of the fishery must keep completed G-CDR books for a period of 5 years.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (5) The holder of an eligible licence in respect of the fishery must keep copies of completed G-CDR forms for a period of 3 years.

Maximum penalty: \$5 000.

Expiation fee: \$315.

19—Periodic returns

- (1) The holder of a licence in respect of the 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 Minister requires; and

- (c) date and sign the return and certify that the information contained in the return is complete and accurate, and post and deliver the return to the Minister within 15 days of the end of the month to which it relates.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) If the holder of a licence takes no aquatic resources under 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 aquatic resources 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 Minister; 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: \$5 000.

Expiation fee: \$315.

Schedule 1—Aquatic resources prescribed for Lakes and Coorong Fishery

Annelids

Bloodworm (Class Polychaeta)

Tubeworm (Class Polychaeta)

Crustaceans

Crab of all species (Family Portunidae)

Freshwater Prawn (*Macrobrachium australiensis*)

Yabby (*Cherax* spp)

Molluscs

Southern Calamari (*Sepioteuthis australis*)

Cockle (*Anadara* & *Katylisia* spp)

Mussels (*Mytilus* spp)

Freshwater Mussels (Family Hyriidae)

Pipi (*Donax* spp)

Gould's Squid (*Nototodarus gouldii*)

Scalefish

Australian Anchovy (*Engraulis australis*)

Barracouta (*Thyrsites atun*)

Black Bream (*Acanthopagrus butcheri*)

Bony Bream (*Nematalosa erebi*)

Carp of all species (Family Cyprinidae)

Cod of all marine species (Family Moridae)

Congolli (*Pseudaphritis urvilli*)
Dory of all species (Family Zeidae)
Flathead (*Platycephalus* spp)
Flounder of all species (Family Bothidae or Pleuronectidae)
Garfish (*Hyporhamphus melanochir*)
Australian Herring (*Arripis georgianus*)
Mullet of all species (Family Mugilidae)
Mulloway (*Argyrosomus hololepidotus*)
Murray Cod (*Maccullochella peelii*)
Golden Perch (*Macquaria ambigua*)
Redfin (*Perca fluviatilis*)
Bight Redfish (*Centroberyx gerrardi*)
Redfish (*Centroberyx affinis*)
Western Australian Salmon (*Arripis truttaceus*)
Australian Sardine (*Sardinops sagax*)
Snapper (*Pagrus auratus*)
Snook (*Sphyraena novaehollandiae*)
Southern Sole (*Aserragodes haackeanus*)
Swallowtail (*Centroberyx lineatus*)
Sea Sweep (*Scorpius aequipinnis*)
Blue-eye Trevalla (*Hyperoglyphe antarctica*)
Trevally (*Caranginae* spp)
Brown Trout (*Salmo trutta*)
Rainbow Trout (*Oncorhynchus mykiss*)
Whiting of all species (Family Sillaginidae)
Bluethroat Wrasse (*Notolabrus tetricus*)

Shark

Rays of all species (Class Elasmobranchii)
Shark of all species (Class Elasmobranchii) other than White Shark (*Carcharodon carcharias*)
Skate of all species (Class Elasmobranchii)

Schedule 2—Revocation and transitional provisions

1—Revocation of Fisheries Management (Lakes and Coorong Fishery) Regulations 2006

The *Fisheries Management (Lakes and Coorong Fishery) Regulations 2006* are revoked.

2—Eligibility to be granted fishery licence

Only a person who was, immediately before 30 June 2009, the holder of a licence in respect of the fishery, may make an application under section 54 of the Act for a licence in respect of the fishery.

3—Continuation of fishery licence, registration and other entitlements

Subject to the Act and these regulations—

- (a) a licence in respect of the fishery held by a person immediately before the revocation of the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2006* by clause 1 of this Schedule (the **revoked regulations**) will continue to be held by the person as a licence under these regulations; and
- (b) registration under the revoked regulations of a boat or device for use under any such licence will continue; and
- (c) registration of a person as a master of a boat that may be used under any such licence will continue; and
- (d) any mesh net entitlement fixed under the revoked regulations by condition of any such licence will be the number of mesh nets registered for use under the licence immediately before the commencement of this Schedule; and
- (e) any yabby pot entitlement fixed under the revoked regulations by condition of any such licence will be the number of yabby pots registered for use under the licence immediately before the commencement of this Schedule.

4—Fees for taking of pipi

- (1) Despite regulation 5(3) of the *Fisheries Management (Fees) Regulations 2007*, if the holder of an eligible licence in respect of the fishery is allocated a number of pipi units under regulation 10(3) for the quota period commencing on 1 November 2009, the holder of the licence must, before 31 December 2009, pay an additional annual fee of \$1 000 plus \$204.10 for each pipi unit of the pipi quota entitlement under the licence.
- (2) An additional annual fee payable under this clause may be paid by equal instalments at intervals fixed by the Minister.

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.

Principal regulations

Year	No	Reference	Commencement
2009	258	<i>Gazette 29.10.2009 p5035</i>	29.10.2009: r 2