

South Australia

FISHERIES (MANAGEMENT COMMITTEES) REGULATIONS 1995

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1.

REGULATIONS UNDER THE FISHERIES ACT 1982*Fisheries (Management Committees) Regulations 1995*

being

No. 194 of 1995: *Gaz.* 12 October 1995, p. 1100¹

as varied by

No. 56 of 1996: *Gaz.* 11 April 1996, p. 1957²No. 18 of 1997: *Gaz.* 20 February 1997, p. 1002³No. 129 of 1998: *Gaz.* 11 June 1998, p. 2515⁴**No. 16 of 2001: *Gaz.* 1 March 2001, p. 814⁵**

- ¹ Came into operation 12 October 1995: reg. 2.
² Came into operation 11 August 1996: reg. 2.
³ Came into operation 20 June 1997: reg. 2.
⁴ Came into operation 11 June 1998: reg. 2.
⁵ **Came into operation 1 March 2001: reg. 2.**

NOTE:*ùAsterisks indicate repeal or deletion of text.**ùEntries appearing in bold type indicate the amendments incorporated since the last reprint.**ùFor the legislative history of the regulations see Appendix 1.*

2.

Citation

1. These regulations may be cited as the *Fisheries (Management Committees) Regulations 1995*.

Commencement

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

Interpretation

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

"**the Act**" means the *Fisheries Act 1982*;

"**committee**" means a management committee established by these regulations in respect of a fishery;

"**fishery**", in relation to a committee, means a fishery in relation to which the committee is established by these regulations;

"**member**" of a prescribed organisation includes an officer or employee of the organisation;

"**prescribed organisation**" means-

- (a) the South Australian Department of Primary Industries; or
- (b) the South Australian Fishing Industry Council; or
- (c) the South Australian Recreational Fishing Advisory Council.

(2) In these regulations, a reference to a fishery of a particular name is a reference to the fishery of that name constituted by the scheme of management prescribed for that fishery under the Act.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Establishment of committees

4. The fishery management committees referred to in column 1 of the schedule are established in relation to the fishery or fisheries referred to in column 2 opposite.

Membership of committees

5. (1) Subject to this regulation, a committee will consist of such members as the Minister thinks fit to appoint to the committee.

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(2) The Minister must, in appointing persons as members of a committee, ensure-

- (a) that all prescribed organisations are adequately represented on the committee; and
- (b) that the interests of holders of licences in respect of the fisheries in relation to which the committee is established are adequately represented on the committee by persons who-
 - (i) are involved in fishing activities carried on pursuant to such licences; and
 - (ii) in the opinion of the Minister, are suitable persons to represent such interests.

(3) The Minister must not appoint a person as a member of a committee to represent a prescribed organisation unless the person is a member of the organisation and has been nominated by the organisation for appointment as a member of the committee.

(4) The Minister must appoint as a member of a committee at least one person with qualifications or expertise in fisheries research.

Proxies

6. (1) Subject to subregulation (2), The Minister may, on such terms and conditions as he or she thinks fit, appoint a suitable person to be the proxy of a member of a committee.

(2) The Minister must not appoint a person to be the proxy of a member of a committee appointed on the nomination of a prescribed organisation unless the person is a member of the organisation and has been nominated by the organisation for appointment as a proxy of a member of the committee.

Terms and conditions of office

7. (1) A member of a committee will be appointed for such term (being not less than 12 months), and on such conditions, as the Minister determines and will, on the expiration of a term of office, be eligible for reappointment.

(2) On the office of a member of a committee becoming vacant, a person must be appointed in accordance with these regulations to the vacant office, but where the office of a member becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

- (3) The office of a member of a committee becomes vacant if-
 - (a) the member dies; or

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- (b) the member completes a term of office and is not reappointed; or
- (c) the member resigns by written notice addressed to the Minister; or
- (d) in the case of a member nominated by a prescribed organisation, the member ceases to be a member of the organisation; or
- (e) the member is removed from office by the Minister-
 - (i) on the ground that the member has been convicted of-
 - (A) an offence against the Act; or
 - (B) an offence against any other Act (including an Act of the Commonwealth or another State or a Territory of the Commonwealth), being an offence related to fishing; or
 - (ii) on the ground of-
 - (A) misconduct; or
 - (B) mental or physical incapacity to carry out satisfactorily the duties of his or her office; or
 - (C) failure to carry out satisfactorily the duties of his or her office.

Presiding member

8. The Minister must appoint a member of a committee to be the presiding member of the committee.

Procedure

9. (1) A meeting of a committee will be chaired by the presiding member or, in his or her absence, by a member chosen by the members present at the meeting.

(2) Subject to subregulation (4), a committee may act despite vacancies in its membership.

(3) The number of members of a committee or proxies of members, or both, that constitutes a quorum of the committee will be as determined by the Minister.

(4) No business may be transacted at a meeting of a committee unless a quorum is present.

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(5) Subject to subregulation (6), each member present at a meeting of a committee whether personally or by proxy is entitled to one vote on a matter arising for decision at the meeting, but the person presiding at the meeting has, in the event of an equality of votes, a casting vote as well as a deliberative vote.

(6) Subject to subregulation (6a), the following members of a committee (and their proxies) are not entitled to vote on a matter arising for decision at a meeting of the committee:

- (a) a person appointed to the committee to represent a prescribed organisation; or
- (b) a person appointed to the committee pursuant to regulation 5(4).

(6a) Subregulation (6) does not apply to a member of a committee and his or her proxy if the member was appointed to the committee to represent the South Australian Recreational Fishing Advisory Council and the member is the only representative of the recreational fishing sector on the committee.

(7) A committee must cause accurate minutes to be kept of its proceedings at meetings.

(8) The procedure for the calling of meetings of a committee and for the conduct of business at meetings will, subject to these regulations, be as determined by the committee.

Conflict of interest

10. (1) A member of a committee who has a direct or indirect pecuniary interest in a matter decided or under consideration by the committee must disclose the nature of the interest to the committee.

Penalty: Division 6 fine.

(2) It is a defence to a charge of an offence against subregulation (1) to prove that the defendant was not, at the time of the alleged offence, aware of his or her interest in the matter.

(3) A disclosure under this regulation must be recorded in the minutes of the committee.

Delegation

11. (1) A committee may, by instrument in writing, delegate any of its powers or functions under these regulations (except this power of delegation) to a member of the committee or a sub-committee established by the committee.

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- (2) A delegation under this regulation-
- (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the committee to act itself in any matter; and
 - (c) is revocable by the committee by instrument in writing.

Ministerial control

12. Except where a committee makes, or is required to make, a recommendation to the Minister, a committee is subject to control and direction by the Minister.

Functions and powers

13. (1) Subject to the Act, a committee is responsible for the management of its fisheries.

- (2) For the purposes of subregulation (1), a committee may-
- (a) make recommendations to the Minister on any of the following matters:
 - (i) any matter which may be provided for by a scheme of management under section 46 of the Act;
 - (ii) any other matter that may be the subject of regulations under the Act;
 - (iii) proposals to make, vary or revoke regulations under the Act, or to make amendments to the Act;
 - (iv) the application of money in the Fisheries Research and Development Fund;
 - (v) any matter related to the administration of the Act;
 - (vi) any matter that the Minister refers to the committee for advice or on which the committee believes it should advise the Minister;
 - (b) make recommendations to the Director on any of the following matters:
 - (i) the granting of authorities under the Act and the conditions to be included in such authorities;
 - (ii) any matter related to the administration of the Act;

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- (iii) any matter that the Director refers to the committee for advice or on which the committee believes it should advise the Director.

Five year strategic plans

14. (1) A committee must, within six months after the commencement of these regulations-

- (a) prepare a plan for the management of its fisheries for the ensuing five years; and
- (b) prepare a plan of the committee's proposed operations for the ensuing five years.

(2) A committee must submit a plan prepared under subregulation (1) to the Minister.

(3) A committee may amend a plan under subregulation (1) at any time, but must submit a revised plan for the ensuing five years to the Minister at least once every 12 months after the initial submission of the plan.

Annual report

15. A committee must, on or before 30 November in each year, submit a report to the Minister on the operations of the committee during the preceding financial year.

10.

SCHEDULE*Fishery management committees*

Column 1 Committee	Column 2 Fishery
<i>Abalone Fishery Management Committee</i>	Central Zone Abalone Fishery Southern Zone Abalone Fishery Western Zone Abalone Fishery
<i>Blue Crab Fishery Management Committee</i>	Blue Crab Fishery
<i>Inland Fisheries Management Committee</i>	Lakes and Coorong Fishery River Fishery
<i>Marine Scalefish Fishery Management Committee</i>	Marine Scalefish Fishery Miscellaneous Fishery Restricted Marine Scalefish Fishery
<i>Northern Zone Rock Lobster Fishery Management Committee</i>	Northern Zone Rock Lobster Fishery
<i>Prawn Fisheries Management Committee</i>	Gulf St. Vincent Prawn Fishery Spencer Gulf Prawn Fishery West Coast Prawn Fishery
<i>Southern Zone Rock Lobster Fishery Management Committee</i>	Southern Zone Rock Lobster Fishery

11.

APPENDIX 1**LEGISLATIVE HISTORY***(entries in bold type indicate amendments incorporated since the last consolidation)*

Regulation 9(5):

varied by 18, 1997, reg. 3(a)

Regulation 9(6):

substituted by 18, 1997, reg. 3(b)

Regulation 9(6a):

inserted by 18, 1997, reg. 3(b)

Schedule:**substituted by 56, 1996, reg. 3; 18, 1997, reg. 4; 129, 1998, reg. 3; 16, 2001, reg. 3**

12.

APPENDIX 2**DIVISIONAL PENALTIES AND EXPIATION FEES**

At the date of publication of this reprint 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
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.