

South Australia

Fisheries Management (Fish Processors) Regulations 2007

under the *Fisheries Management Act 2007*

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Legislative history

1—Short title

These regulations may be cited as the *Fisheries Management (Fish Processors) Regulations 2007*.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Fisheries Management Act 2007*;

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

Marine Scalefish Fishery has the same meaning as in the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*;

Miscellaneous Broodstock and Seedstock Fishery means the fishery of that name constituted by the *Fisheries Management (Miscellaneous Broodstock and Seedstock Fishery) Regulations 2013*;

undersize fish has the same meaning as in the *Fisheries Management (General) Regulations 2007*.

4—Persons not required to be registered as fish processors

Pursuant to 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—Registration of additional premises etc

- (1) If a registered fish processor proposes to use for or in connection with processing, storing, transporting or dealing with aquatic resources any premises, place, boat or vehicle that is not specified in his or her certificate of registration, he or she 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 signed by the applicant and completed in accordance with the instructions contained in the form; and
 - (c) be accompanied by the appropriate fee fixed by the *Fisheries Management (Fees) Regulations 2007*.

6—Written records to be kept

- (1) A fish processor must keep a separate written record for each of the premises, places, boats or vehicles used by the fish processor for, or in connection with, the processing, storage or transport of, or dealing with, aquatic resources.
- (2) A written record must contain the following information in relation to each consignment or batch of aquatic resources received for storage, processing or transport, or for dealing with, at or by the premises, place, boat or vehicle:
 - (a) the name and address of the person from whom the aquatic resources were purchased or obtained;
 - (b) if the person from whom the aquatic resources were purchased or obtained is the holder of a fishery licence or permit—the person's licence or permit number;
 - (c) the date on which the aquatic resources were purchased or obtained;
 - (d) the species of aquatic resource and, for each species, the quantity of and price (if any) paid for the aquatic resource;
 - (e) if any of the aquatic resources are undersize fish—the species of fish and, for each species, the quantity of the fish.
- (3) The information required under this regulation must be entered—
 - (a) immediately after the aquatic resources were purchased or obtained in a book or register the pages of which are numbered consecutively; and
 - (b) in the order in which the transactions to which the information relates occurred; and

- (c) so that each entry is made immediately below the previous entry and each page of the book or register is filled before an entry is made on the next page.
- (4) The records made in accordance with this regulation must be kept—
 - (a) for 12 months after the aquatic resources to which they relate were purchased or obtained by the fish processor; and
 - (b) at or in the premises, place, boat or vehicle to which they relate, or, if the Minister specifies some other place for that purpose in the fish processor's certificate of registration, that place.
- (5) A person who contravenes or fails to comply with this regulation is guilty of an offence.
Maximum penalty: \$2 500.
Expiation fee: \$210.
- (6) 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.

7—Returns

- (1) A registered fish processor must lodge with the Minister within 21 days of the end of each month returns in respect of the sale, purchase, processing, storage and movement of aquatic resources carried out during the month.
- (2) The returns must—
 - (a) be in a form approved by the Minister; and
 - (b) be signed by or on behalf of the registered fish processor and completed in accordance with the instructions contained in the form; and
 - (c) contain such information relating to the sale, purchase, processing, storage and movement of aquatic resources carried out during the month as the Minister requires.
- (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.

8—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 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, he or she 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 registered fish processor will be taken, in the absence of proof to the contrary, to have failed to comply with subregulation (1).

9—Delivery of abalone to registered fish processor

- (1) In this regulation—

CDR1 form means the document produced from time to time by the Department entitled *CDR1 Department of Primary Industries (Fisheries) Abalone Catch and Disposal Record* properly completed by the person who took the abalone.

- (2) Unless the contrary intention appears, terms used in this regulation that are defined in the *Fisheries Management (Abalone Fisheries) Regulations 2006* have the same respective meanings as in those regulations.

- (3) A registered fish processor must not purchase or obtain abalone from—

- (a) the holder of a fishery licence or permit that entitles the holder of the licence or permit to take abalone; or
- (b) the agent of such a licence or permit holder,

unless a CDR1 form in respect of the abalone is delivered with the abalone.

- (4) If a registered fish processor has taken delivery of the abalone and the CDR1 form, he or she must—

- (a) in the case of abalone that has been consigned to the fish processor in the shell but is to be sold as meat only—
 - (i) weigh the abalone in the shell and record the weight in Part B of the CDR1 form within 1 hour of breaking the tags attached to the bags or bins containing the abalone; and
 - (ii) after shucking the abalone—weigh the shucked abalone and record the meat weight in Part B of the CDR1 form within 18 hours of breaking the tags attached to the bags or bins containing the abalone; and
 - (iii) complete the certificate in Part B of the CDR1 form within 48 hours after the abalone is landed; and
 - (iv) within 7 days of taking delivery of the abalone to which the CDR1 form relates, deliver, or cause to be delivered, the completed form to the Minister; or
- (b) in any other case—
 - (i) weigh the abalone and complete Part B of the CDR1 form within 1 hour of breaking the tags attached to the bags or bins containing the abalone; and

- (ii) complete the certificate in Part B of the CDR1 form within 48 hours after the abalone is landed; and
 - (iii) within 7 days of taking delivery of the abalone to which the CDR1 form relates, deliver, or cause to be delivered, the completed form to the Minister.
- (5) A person must not complete Part B of a CDR1 form if he or she has completed Part A of the form.
- (5a) If tags attached to bags or bins containing abalone delivered to a fish processor are to be broken between 1800 hours on any day and 0700 hours on the following day, the fish processor must, at least 1 hour before doing so, give the Minister notice by telephone that the tags are to be broken between those hours.
- (6) A person who contravenes or fails to comply with this regulation is guilty of an offence.
Maximum penalty: \$2 500.
Expiation fee: \$210.

9A—Delivery of cockles

- (1) In this regulation—
cockle means *Katelysia* spp;
marine scalefish fishery has the same meaning as in the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*;
M-CDR form means the form produced by the Department entitled *Mud Cockle Catch and Disposal Record*;
Northern Zone Rock Lobster Fishery means the fishery of that name constituted by the *Fisheries Management (Rock Lobster Fisheries) Regulations 2006*.
- (2) If cockles purchased or obtained by a registered fish processor from—
 - (a) the holder of—
 - (i) a licence in respect of a marine scalefish fishery; or
 - (ii) a licence in respect of the Northern Zone Rock Lobster Fishery; or
 - (b) an agent of the holder of such a licence; or
 - (c) another registered fish processor who purchased or obtained the cockles from a person referred to in paragraph (a) or (b),are consigned or delivered to the registered fish processor in containers sealed with tags issued by the Minister, the registered fish processor must not unseal the containers except at registered premises of the fish processor.
Maximum penalty: \$2 500.
Expiation fee: \$210.

- (3) A registered fish processor must keep the blue copies of all completed M-CDR forms relating to cockles purchased or obtained by the registered fish processor from a person referred to in subregulation (2) for a period of 7 years.

Maximum penalty: \$2 500.

Expiation fee: \$210.

9B—Delivery of pipi

- (1) In this regulation—

eligible licence has the same meaning as in the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;

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*;

Lakes and Coorong Fishery means the fishery of that name constituted by the *Fisheries Management (Lakes and Coorong Fishery) Regulations 2009*;

Marine Scalefish Fishery has the same meaning as in the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*;

pipi means Pipi (*Donax* spp).

- (2) If pipi purchased or obtained by a registered fish processor from—

- (a) the holder of—

- (i) an eligible licence in respect of the Lakes and Coorong Fishery; or
(ii) an eligible licence in respect of the Marine Scalefish Fishery; or

- (b) an agent of the holder of such a licence; or

- (c) another registered fish processor who purchased or obtained the pipi from a person referred to in paragraph (a) or (b),

are consigned or delivered to the registered fish processor in containers sealed with tags issued by the Minister, the registered fish processor must not unseal the containers except at registered premises of the fish processor.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) A registered fish processor must keep the blue copies of all completed G-CDR forms relating to the pipi purchased or obtained by the registered fish processor from a person referred to in subregulation (2) for a period of 7 years.

Maximum penalty: \$2 500.

Expiation fee: \$210.

10—Delivery of blue crab

- (1) In this regulation—

BSCF1 form means the document produced from time to time by the Department entitled *BSCF1 Primary Industries (SA) Fisheries Blue Crab Catch and Disposal Record* properly completed by the person who took the blue crab.

- (2) Unless the contrary intention appears, terms used in this regulation that are defined in the *Fisheries Management (Blue Crab Fishery) Regulations 1998* have the same respective meanings as in those regulations.
- (3) A registered fish processor who purchases or obtains blue crab from—
- (a) the holder of a licence or permit in respect of the Blue Crab Fishery; or
 - (b) the holder of a licence in respect of the Marine Scalefish Fishery that is subject to a condition fixing a blue crab quota entitlement; or
 - (c) an agent of the holder of a licence or permit referred to in paragraph (a) or (b),

must—

- (d) on taking delivery of the blue crab—
 - (i) immediately weigh the blue crab; and
 - (ii) immediately complete the certificate contained in Part B of a BSCF1 form in respect of the blue crab; and
- (e) within 24 hours of taking delivery of the blue crab to which the form relates, deliver, or cause to be delivered, the completed form to the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

11—Delivery of giant crab

- (1) In this regulation—

GC-CDR form means the form produced from time to time by the Department entitled *Giant Crab Catch and Disposal Record* properly completed by the person who took the giant crab;

Miscellaneous Fishery has the same meaning as in the *Fisheries Management (Miscellaneous Fishery) Regulations 2000*.

- (2) Unless the contrary intention appears, terms used in this regulation that are defined in the *Fisheries Management (Rock Lobster Fisheries) Regulations 2006* have the same respective meanings as in those regulations.
- (3) If—
- (a) a registered fish processor purchases or obtains giant crab from—
 - (i) the holder of a licence or permit in respect of the Miscellaneous Fishery or a rock lobster fishery; or
 - (ii) the agent of the holder of a licence or permit referred to in subparagraph (i); and

- (b) a GC-CDR form in respect of the giant crab is produced to the fish processor on delivery of the giant crab,

the fish processor must—

- (c) on taking delivery—
 - (i) immediately weigh the giant crab; and
 - (ii) immediately complete the certificate contained in Part B of that GC-CDR form in respect of the giant crab; and
- (d) within 24 hours of taking delivery of the giant crab to which the form relates, deliver, or cause to be delivered, the completed form to the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

12—Delivery, storage and sale of rock lobster

- (1) In this regulation—

approved means approved by the Minister;

NZRL-CDR form means the form produced from time to time by the Department entitled *Northern Zone Rock Lobster Catch and Disposal Record*;

RLSTF book means the document issued by the Department containing blank RLSTF forms;

RLSTF form means the form produced from time to time by the Department entitled *Rock Lobster Sales and Transfer Form*;

SZRL2 form means the form produced from time to time by the Department entitled *SZRL2 Primary Industries (SA)—Fisheries Rock Lobster Purchase Record*.

- (2) Unless the contrary intention appears, terms used in this regulation that are defined in the *Fisheries Management (Rock Lobster Fisheries) Regulations 2006* have the same respective meanings as in those regulations.
- (3) A registered fish processor who purchases or obtains rock lobster from—
 - (a) the holder of a licence or permit in respect of the Northern Zone Rock Lobster Fishery; or
 - (b) an agent of the holder of such a licence or permit; or
 - (c) another registered fish processor who purchased or obtained the rock lobster from a person referred to in paragraph (a) or (b),

must not accept delivery of the rock lobster unless—

- (d) the rock lobster is delivered to the registered fish processor in bins of an approved kind each of which is sealed with a tag of an approved kind; and
- (e) the white, blue and green copies of Parts B and C of the NZRL-CDR form completed in respect of the rock lobster are delivered to the fish processor with the rock lobster.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) A registered fish processor who purchases or obtains rock lobster from a person referred to in subregulation (3) must—
- (a) immediately on taking delivery of the rock lobster at premises (or a vehicle) specified on the certificate of registration of the fish processor, weigh the sealed bins containing the rock lobster and complete the certificate in Part C of the NZRL-CDR form relating to the rock lobster; and
 - (b) within 2 hours of the rock lobster being received at premises specified on the certificate of registration of the fish processor, transmit the completed NZRL-CDR form by fax transmission to a fax number nominated by the Minister for the purposes of this paragraph; and
 - (c) within 48 hours of taking delivery of the rock lobster, deliver or cause to be delivered, the green copy of Parts B and C of the NZRL-CDR form completed in respect of the rock lobster to the holder of the licence or permit pursuant to which the rock lobster were taken; and
 - (d) within 48 hours of completing the certificate, deliver or cause to be delivered, the white copy of the completed NZRL-CDR form to the Minister at an address nominated by the Minister for the purposes of this paragraph.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (5) If a registered fish processor who purchases or obtains rock lobster from a person referred to in subregulation (3)—

- (a) sells the rock lobster to any person; or
- (b) transfers the rock lobster to a different place, premises, boat or vehicle for storage at that place, premises, boat or vehicle,

the registered fish processor must—

- (c) immediately weigh the rock lobster and complete a RLSTF form in respect of the rock lobster; and
- (d) within 2 hours of completing the form, transmit the completed form by fax transmission to a fax number nominated by the Minister for the purposes of this paragraph; and
- (e) within 48 hours of completing the form, deliver, or cause to be delivered, the completed form to the Minister at an address nominated by the Minister for the purposes of this paragraph; and
- (f) ensure that the blue copy of the completed form is kept with the rock lobster to which the form relates at all times while the rock lobster is being transported; and
- (g) ensure that the yellow copy of the completed form remains in the RLSTF book.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (6) A registered fish processor who purchases or obtains rock lobster from—
- (a) the holder of a licence or permit in respect of the Southern Zone Rock Lobster Fishery; or
 - (b) the agent of the holder of such a licence or permit; or
 - (c) another registered fish processor who purchased or obtained the rock lobster from a person referred to in paragraph (a) or (b),

must—

- (d) on taking delivery of the rock lobster, immediately weigh the rock lobster and complete a SZRL2 form in respect of the rock lobster; and
- (e) within 24 hours of taking delivery of the rock lobster, deliver, or cause to be delivered, the completed form to the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (7) If a registered fish processor who has purchased or obtained rock lobster from a person referred to in subregulation (6)—

- (a) sells the rock lobster to any person; or
- (b) transfers the rock lobster to a different place, premises, boat or vehicle for storage at that place, premises, boat or vehicle,

the registered fish processor must—

- (c) immediately weigh the rock lobster and complete a RLSTF form in respect of the rock lobster; and
- (d) within 24 hours of the sale or transfer of the rock lobster, deliver, or cause to be delivered, the completed form to the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (8) If the provisions of this regulation require the completion of Parts A and C, or Parts B and C, of a NZRL-CDR form, the person who completes Part A or Part B (as the case requires) must not be the same person as the person who completes Part C of the form.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (9) A registered fish processor must keep the following documents for a period of 7 years:

- (a) the blue copies of all NZRL-CDR forms completed by the registered fish processor;
- (b) RLSTF books containing the yellow copies of all RLSTF forms completed by the registered fish processor.

Maximum penalty: \$2 500.

Expiation fee: \$210.

13—Delivery of sardines

- (1) In this regulation—

PF-CDR form means the document produced from time to time by the Department entitled *PFCDR Primary Industries (SA) Fisheries Sardines Catch and Disposal Record* properly completed by the person who took the sardines;

PFTF form means the document produced from time to time by the Department entitled *Sardine Fishery Transit Form* properly completed by the person who took the sardines.

- (2) Unless the contrary intention appears, terms used in this regulation that are defined in the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006* have the same respective meanings as in those regulations.

- (3) If—

- (a) a registered fish processor purchases or obtains sardines from—
 - (i) the holder of a licence in respect of the Marine Scalefish Fishery subject to a condition fixing a sardine quota entitlement; or
 - (ii) an agent of the holder of a licence referred to in subparagraph (i); and
- (b) the sardines are consigned to the registered fish processor when the sardines are unloaded from the registered boat from which they were taken; and
- (c) the sardines are to be transported to the registered premises of the registered fish processor by 2 or more vehicles,

the registered fish processor must, before the vehicles depart for the registered premises, complete Part B of a PFTF form in respect of each vehicle other than the vehicle in which sardines are to be transported together with a PF-CDR form in respect of the sardines.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (4) A registered fish processor who purchases or obtains sardines from a person referred to in subregulation (3)(a)(i) or (ii) must—

- (a) on delivery of the sardines to the registered premises of the registered fish processor—
 - (i) immediately weigh the sardines; and
 - (ii) immediately complete the certificate contained in Part B of a PF-CDR form in respect of the sardines; and
- (b) within 7 days of taking delivery of the sardines to which the PF-CDR form relates, deliver, or cause to be delivered, the completed form to the Minister.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (5) A registered fish processor must keep the blue copies of all PF-CDR forms completed by the registered fish processor for a period of 7 years.

Maximum penalty: \$2 500.

Expiation fee: \$210.

14—Delivery of tuna

- (1) In this regulation—

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

CR3 form means the yellow copy of a document produced from time to time by AFMA entitled *CR3—Record of Southern Bluefin Tuna (SBT) Taken* properly completed by the person who took the tuna;

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

- (2) A registered fish processor must not purchase or obtain tuna for processing from a boat authorised to take tuna unless a CR3 form in respect of all of the tuna from the boat is delivered together with the tuna.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (3) On receiving a CR3 form under subregulation (2), the registered fish processor must—

- (a) immediately complete the certificate contained in the form; and
- (b) on or before the Monday next following after the day on which delivery of the tuna to which the form relates was taken, deliver, or cause to be delivered, the completed form to the Minister or AFMA.

Maximum penalty: \$2 500.

Expiation fee: \$210.

15—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.

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.

Legislation revoked by principal regulations

The *Fisheries Management (Fish Processors) Regulations 2007* revoked the following:

Fisheries (Fish Processors) Regulations 2006

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2007	273	<i>Gazette 29.11.2007 p4413</i>	1.12.2007: r 2
2008	274	<i>Gazette 16.10.2008 p4866</i>	16.10.2008: r 2
2009	260	<i>Gazette 29.10.2009 p5057</i>	29.10.2009: r 2
2013	191	<i>Gazette 1.8.2013 p3327</i>	1.12.2013: r 2
2013	285	<i>Gazette 19.12.2013 p4964</i>	1.1.2014: r 2

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>16.10.2008</i>
r 3		
Miscellaneous Broodstock and Seedstock Fishery	inserted by 191/2013 r 4	1.12.2013
r 4	substituted by 191/2013 r 5	1.12.2013
r 9		
r 9(4) and (5)	substituted by 285/2013 r 4	1.1.2014
r 9(5a)	inserted by 285/2013 r 4	1.1.2014
r 9A	inserted by 274/2008 r 4	16.10.2008
r 9B	inserted by 260/2009 r 4	29.10.2009

<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>16.10.2008</i>
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Historical versions

16.10.2008

29.10.2009

1.12.2013