

FISHERIES ACT 1905
COCKBURN SOUND (FISH NET) LIMITED ENTRY FISHERY NOTICE 1995
Arrangement

Clause

1. Citation
2. Commencement
3. Interpretation
4. Declaration of limited entry fishery
5. Prohibition on taking or selling fish
6. Criteria for a person to operate in the Fishery
7. Criteria for issue of a licence
8. Licence
9. Ministerial discretion
10. Closures within the Fishery
11. Licensee or nominated operator to control operations within Fishery
12. Permitted mean of operating in the Fishery
13. Boat replacement
14. Transfer of licence
15. Applications and prescribed fees
16. Publication of details

Schedule 1
Schedule 2

FISHERIES ACT 1905

COCKBURN SOUND (FISH NET) LIMITED ENTRY FISHERY NOTICE 1995

NOTICE No. 662

FD 968/85

Made by the Minister under Section 32.

Citation

1. This Notice may be cited as the *Cockburn Sound (Fish Net) Limited Entry Fishery Notice 1995*.

Commencement

2. This Notice shall commence operation on 1 March 1995.

Interpretation

3. In this Notice unless the contrary intention appears —
"authorization" means any limited entry fishing licence issued or renewed pursuant to a limited entry fishery notice including this Notice made under s 32 of the Act in respect of Cockburn Sound or any of the waters of the Indian Ocean between the mouth of the Moore River and Tim's Thicket;
"authorized boat" means a licensed fishing boat in respect of which a licence is issued pursuant to this Notice;

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.

- "authorized person" means the nominated operator of a licence, or if no nominated operator then the licensee of a licence;
- "Cockburn Sound" means the area of water described in Schedule 1;
- "crustacea" means any fish of the subphylum *crustacea*;
- "Fishery" means the Cockburn Sound (Fish Net)Limited Entry Fishery declared under clause 4;
- "fish net" means a net of minimum mesh size of 48 millimetres;
- "garfish" means any fish of the Family *Hemirhamphidae*;
- "garfish net" means a surface set net with a minimum mesh size of 25 millimetres, a maximum mesh size of 76 millimetres and a maximum depth of 18 metres;
- "haul net" means a net which is hauled by hand with a minimum mesh size of 48 millimetres, a maximum mesh size of 114 millimetres, a maximum length of 300 metres and a maximum depth of 6 metres;
- "licence" means any limited entry fishery licence issued or renewed pursuant to this Notice that authorizes a person to use a licenced fishing boat to operate in the Fishery or any part of the Fishery;
- "licenced fishing boat" means a boat licensed pursuant to regulation 2 of the Regulations;
- "measured length" means the measured length of the boat as defined by and determined in accordance with the Department of Transport Instruction to Surveyors notice 7/87 (reworked September 1994) effective from 21 September 1994, as reworked or superseded from time to time;
- "nominated operator" means a person approved by the Director as the nominated operator of a licence in accordance with clause 8;
- "operate" means —
- (a) to search for fish;
 - (b) to attempt to take fish;
 - (c) to take fish; or
 - (d) to engage in any other activity that can reasonably be expected to result in the taking of fish;
- "Regulations" means the Fisheries Regulations 1938;
- "set net" means a net which is set with a minimum mesh size of 48 millimetres, a maximum mesh size of 114 millimetres, a maximum length of 1 000 metres and a maximum depth of 3 metres;
- "supplementary licence" means a limited entry fisheries licence issued pursuant to clause 9 that is endorsed as a "supplementary licence" or any such licence subsequently renewed;
- "transfer" means the passing of any ownership or effective control of a licence from one person to another person.

Declaration of limited entry fishery

4. It is hereby declared that the taking of any species of fish or otherwise operating from the waters described in Schedule 1 by fish net or garfish net, shall constitute a limited entry fishery named the *Cockburn Sound (Fish Net) Limited Entry Fishery*.

Prohibition on taking or selling fish

5. (1) A person, other than a person to whom section 32(5) of the Act and other than a person referred to in subclause (2) applies, shall not operate by means of a fish net or a garfish net in the Fishery other than in accordance with this Notice.

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.

(2) To the extent that a species of fish forms part of the *West Coast Purse Seine Limited Entry Fishery* and of this Fishery, a person licensed in the *West Coast Purse Seine Limited Entry Fishery* may take or attempt to take fish in that part of the Fishery without obtaining a licence under this Notice, provided that the person complies with the requirements of the *West Coast Purse Seine Limited Entry Fishery Notice 1989** and of any licence issued or renewed pursuant to that Notice.

(3) A person shall not sell, dispose of or otherwise deal with or attempt to sell, dispose of or otherwise deal with fish taken in contravention of this Notice.

Criteria for a person to operate in the Fishery

6. A person, other than a person to whom section 32(5) of the Act applies or a person referred to in subclause 5(2), shall not operate in the Fishery unless —

- (a) the person holds a professional fisherman's licence issued pursuant to the Regulations; and
- (b) the person operates from an authorized boat.

Criteria for issue of a licence

7. (1) The criteria that shall be applied to determine whether a licence may be issued in relation to a licensed fishing boat, are that —

- (a) the boat was used in Cockburn Sound —
 - (i) to fish during 1984 and during 1985 prior to 30 April 1985 using haul nets or set nets;
 - (ii) to take at least 1000 kilograms of fish by haul net or set net and fished by those methods in at least two months in the period 1 January 1984 to 30 April 1985; and
 - (iii) to take at least 1000 kilograms of fish by haul net or set net in each year in at least three of the four years from 1 May 1985 to 30 April 1989 inclusive; or
- (b) the boat has replaced a boat to which paragraph (a) applies.

(2) In this clause, "year" means the period from 1 May in any year to 30 April in the following year.

Licence

8. (1) The licensee of a licensed fishing boat as described in Clause 7 may apply to the Director for a licence to operate in the Fishery.

(2) Where more than one person (whether natural persons or otherwise) or a body corporate is the proposed licensee, the proposed licensee must nominate one natural person to be the nominated operator and a licence shall not issue unless the Director approves such nomination.

(3) A nomination made under sub-clause (2) shall be in writing to the Director on the approved form.

(4) The nominated operator of a licence shall not be replaced.

(5) A licensee may apply to the Director for the renewal of a licence at any time within 30 days before the licence expires.

(6) If the Director considers that it is appropriate to do so, the Director may in the case of an application under —

- (a) subclause (1) - approve the issue of a licence;
- (b) subclause (3) - approve the person nominated to be the nominated operator of the licence; or
- (c) subclause (5) - approve the renewal of a licence

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.

- (7) Where the Director has approved the issue or renewal of a licence, the licence expires on 31 December of the year for which it was issued.
- (8) A licence may be issued or renewed subject to conditions that shall be endorsed on it.
- (9) When a licence is issued or renewed, the licence shall be endorsed to show —
- (a) the name and licensed fishing boat number in respect of which it is issued;
 - (b) the name and address of the licensee and nominated operator (if any) of that boat;
 - (c) the name of the Fishery;
 - (d) the licence number;
 - (e) the date of issue or renewal;
 - (f) the period for which the licence is valid; and
 - (g) any conditions imposed on the licence.

Ministerial discretion

- 9.** (1) Notwithstanding the provisions of clause 7, the licensee of a licensed fishing boat that does not satisfy the criteria mentioned in clause 7 may, on application and with the written approval of the Minister, be issued with a licence to operate in the Fishery.
- (2) The Minister may, pursuant to this clause, direct that a licence (including a supplementary licence) be issued.
- (3) Without limiting subclause (2), a licence issued under this clause may be restricted —
- (a) to any part of the Fishery;
 - (b) to any period of operation; and
 - (c) by any conditions that the Minister may impose.

Closures within the Fishery

- 10.** (1) A person shall not take or attempt to take fish by means of a haul net, set net or garfish net in the waters described in Schedule 2 at any time.
- (2) A person shall not take or attempt to take crustacea in the waters of the Fishery unless authorized by an authorization to do so.

Licensee or nominated operator to control operations within Fishery

- 11.** Unless otherwise authorized in writing by the Director, an authorized person shall:
- (a) when the authorized boat is in the waters of the Fishery, be on board the authorized boat; and
 - (b) when the authorized boat is being used to operate in the waters of the Fishery, be in control of or in charge of those activities.

Permitted means of operating in the Fishery

- 12.** (1) A person may take fish or otherwise operate in the Fishery only by means of a haul net, set net or garfish net.
- (2) All nets used in the Fishery must have a floatline which remains on the surface of the water.
- (3) A haul net or set net used in the Fishery shall not contain a bunt or pocket.
- (4) An authorized boat in the Fishery shall not —
- (a) have on board the boat; or
 - (b) be operated to use or set,
- more than 1000 metres of haul or set net or 260 metres of garfish net.
- (5) Garfish may be taken in the Fishery only by means of a garfish net.

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.

Boat replacement

13. (1) An authorized boat may only be replaced by another licensed fishing boat with the prior written approval of the Director.

(2) An authorized boat —

(a) which is less than 5.5 metres measured length; and

(b) in respect of which no authorization other than a licence is in force,

may be replaced on application made to the Director by another licensed fishing boat which is not more than 5.5 metres measured length.

(3) An authorized boat to which subclause (2) does not apply may only be replaced on application made to the Director by another licensed fishing boat of measured length less than or equal to that of the authorized boat.

(4) The measured length of a boat shall, in the case of any disagreement or where otherwise necessary, be determined by an officer of the Department of Transport nominated in writing by the Director and appointed in writing by the licensee of the boat at the licensee's cost.

(5) Any change effected to the measured length of an authorized boat shall be, for the purposes of this Notice, taken to be a replacement of the authorized boat.

(6) Where an authorized boat is replaced other than in accordance with this clause, the replacement boat shall not be an authorized boat for the purposes of this Notice.

Transfer of licence

14. A licence issued under the provisions of this Notice shall not be transferred.

Applications and prescribed fees

15. An application to the Director under this Notice shall be —

(a) made on the form approved by the Director;

(b) lodged subject to any direction in this Notice, in accordance with the directions on the form; and

(c) accompanied with the prescribed fee, if any.

Publication of details

16. The Director may by letter or by notice published in *The West Australian* newspaper or in the *Western Fisheries* magazine published by the Fisheries Department give notice of the names and addresses of the persons who hold licences to operate in the Fishery.

Schedule 1
(clauses 3 and 4)

The waters of the Indian Ocean bounded by a line commencing at a point on the high water mark at the western extremity of the South Mole at the entrance to Fremantle Harbour and extending westerly to the southern most rock of the Straggler Rocks; thence south easterly to the high water mark on the northern most point of Mewstone; thence generally southerly along the high water mark on the eastern shore of Mewstone to its southern most point; thence southerly to the high water mark on the northern most point of Carnac Island; thence generally southerly along the high water mark on the eastern shore of that island to its southern most point; thence southerly to the high water mark at Entrance Point on Garden Island; thence generally southerly along the high water mark on the eastern shore of that island to south west point; thence southerly to the high water mark at John Point on the mainland; thence along the high water mark to the commencing point.

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.

Schedule 2
(clause 10)

Item 1. Cockburn Sound (west of Rockingham)

All that portion of Cockburn Sound bounded by a line commencing from a point on the high water mark situated in prolongation north westerly of the midline of Flinders Lane, Rockingham; thence northwesterly 800 metres along that prolongation; thence generally westerly and northwesterly parallel to and 800 metres from the high water mark to a point situated 800 metres north of the high water mark on the northern most extremity of John Point; thence south to the high water mark at John Point and thence generally south easterly and easterly along the high water mark to the commencing point.

Item 2. Cockburn Sound (Kwinana Beach)

All that portion of Cockburn Sound bounded by a line commencing from a point on the high water mark situated in prolongation northwesterly of the mid line of John Street, East Rockingham and extending generally northeasterly along the high water mark to a point situated on the intersection of the high water mark with the prolongation northwesterly of the midline of Harbour Road, Kwinana; thence northwesterly 800 metres along that prolongation; thence generally southwesterly parallel to and 800 metres from the high water mark to a point situated in prolongation north westerly of the mid line of John Street, East Rockingham and thence southeasterly to the commencing point.

Item 3. Coogee Beach

All that portion of the Indian Ocean bounded by a line commencing from a point on the high water mark situated in prolongation westerly of the mid line of Beach Road, Coogee and extending generally southerly along the high water mark to an east west line passing through a point situated 460 metres south of the commencing point; thence west 400 metres; thence north 920 metres; thence east to the high water mark of the Indian Ocean and thence generally southerly along the high water mark to the commencing point.

Item 4. Cockburn Sound and Garden Island

All that portion of Cockburn Sound bounded by a line commencing at the easternmost extremity of Colpoys Point on Garden Island and extending east for 400 metres; thence south westerly to a point situated 400 metres east of the eastern most extremity of Collie Head; thence west to that point and thence generally northeasterly along the foreshore of Cockburn Sound and Careening Bay to the commencing point.

Item 5. South Beach

All that portion of the Indian Ocean adjacent to South Beach, Fremantle bounded by a line commencing from a point on the intersection of the prolongation westerly of the midline of Douro Road with the high water mark of the Indian Ocean and extending generally southerly along that high water mark to a point situated in prolongation westerly of the mid line of Island Street, thence westerly 150 metres along that prolongation; thence generally northerly parallel to and 150 metres from the high water mark to a point situated in prolongation westerly of the midline of Douro Road and thence easterly to the commencing point.

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.

Item 6. Rockingham

All that portion of Cockburn Sound bounded by a line commencing from a point on the high water mark situated in prolongation northwesterly of the mid line of Flinders Lane, Rockingham and extending generally northeasterly along the high water mark to a point situated on the intersection of the high water mark with the prolongation northwesterly of the mid line of John Street, East Rockingham; thence north westerly 800 metres along that prolongation; thence generally south westerly parallel to and 800 metres from the high water mark to a point situated in prolongation northwesterly of the mid line of Flinders Lane, Rockingham and thence southeasterly to the commencing point.

*[*Published in the Gazette of 8 September 1989]*

Dated this 17th day of February 1995.

MONTY HOUSE, Minister for Fisheries

DISCLAIMER:

This is not an official version. Although this document has been carefully collated from each of the relevant issues of the Government Gazettes in which the principal notice and subsequent amendments were published, its accuracy cannot be guaranteed.

Accordingly - (a) no warranty is given that it is free from error or omission nor as to the accuracy of any information in it; and (b) the State of Western Australia and its servants expressly disclaim liability for any act or omission done in reliance on the document or for any consequences of any such act or omission.