

## Fisheries Act 1905

### SOUTH COAST PURSE SEINE LIMITED ENTRY FISHERY NOTICE 1994

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## Fisheries Act 1905

SOUTH COAST PURSE SEINE LIMITED ENTRY FISHERY NOTICE 1994

Notice No. 636

FD 503/87 and 403/87

Made by the Minister under section 32.

### Citation

1. This notice may be cited as the *South Coast Purse Seine Managed Fishery Management Plan 1994*.

### Commencement

2. This notice shall commence operation on 1 April, 1994.

### Interpretation

3 (1) In this notice unless the contrary intention appears-

"approved receiver" means a person who is a member of a class specified in a notice made under clause 14C;

"authorised boat" means –

(a) a licensed fishing boat the name and licensed fishing boat number of which are specified in a licence; or

(b) a boat specified in a written authority under regulation 132 where that boat is to be used in the place of a boat described in (a).

"Catch and Disposal Record Book" means a book of triplicate consignment notes in a form approved for the purpose of clause 14 by the CEO;

"commencement date" means the date that this notice commences operation;

"Fishery" means the South Coast Purse Seine Limited Entry Fishery declared under clause 4;

"headrope length" means the distance measured along the headrope from where the net attaches to one end of the headrope to where it attaches to the other end of the headrope;

"length" means, in relation to a fishing boat, the length as determined in accordance with regulations made under the Western Australian Marine Act 1982, expressed in metres to 1 decimal point (with an amount of 0.05 metres or more being rounded upwards to the next 0.1 of a metre);

"licence" means a managed fishery licence that authorises a boat to be operated in any part of the Fishery;

"operate" means operate in connection with taking, or attempting to take, small pelagic fish by means of a purse seine net;

"purse seine net" means a net that can be run out from a fishing boat to form a wall around a shoal of fish with a headrope usually floating on the surface of the water and with a series of circular rings (purse rings) attached to a ground line through which is passed a purse line or purse string which when hauled closes the net to form a purse or artificial pond which retains the encircled fish;

"regulations" means the *Fish Resources Management Regulations 1995*;

"small pelagic fish" means all or any of the following species of fish-

(a) Pilchards (*Sardinops neopilchardus*);

(b) Scaly Mackerel (*Sardinella lemuru*);

(c) Yellowtail Scad (*Trachurus novaezelandiae*);

(d) Sandy Sprat (*Hyperlophus vittatus*);

(e) Australian Anchovy (*Engraulis australis*);

(f) Blue Sprat (*Spratelloides robustus*); and

(g) Moray (*Etrumeus teres*);

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"total fee" means the fee as specified in Part 3 of Schedule 1 of the regulations;

"zone" means a zone of the Fishery as described in Schedule 2.

(2) Where in this notice there is a reference to a particular Zone then the area referred to is the appropriate Zone as described in Schedule 2.

(3) Unless the contrary intention appears the following words have the meanings provided for in the regulations -

“licensed fishing boat” ; and

“licensed fishing boat number”.

#### **Declaration of limited entry fishery**

**4.** It is hereby declared that small pelagic fish in the waters described in Schedule 1 constitute a limited entry fishery, named the South Coast Purse Seine Limited Entry Fishery.

#### **Criteria for a person to operate in the Fishery**

**5.** A person shall not operate in the Fishery unless —

(a) the person holds a commercial fishing licence issued pursuant to regulations made under the Act; and

(b) the person is operating from an authorised boat.

#### **Criteria to operate a boat in the Fishery**

**6.** A person must not use a boat in a Zone of the waters of the Fishery unless the boat is an authorised boat.

#### **Criteria to be satisfied before a licence may be granted**

**6A** (1) Subject to subclause (2) no licence is to be granted after the commencement of this amendment.

(2) The Executive Director may grant a licence authorising a person to fish in Zone 4 where all the following criteria are satisfied —

(a) the person is the holder of a fishing boat licence which was in force in respect of a fishing boat which was used during the period 1 March 1992 to 31 December 1993 to take for sale a minimum of 50 tonnes of small pelagic fish from the waters of Zone 4;

(b) the fish referred to in (a) were sold; and

(c) complete and correct returns were furnished under and in accordance with section 18 of the *Fisheries Act 1905* in respect of the fish referred to in (a) and (b).

#### **Additional criteria for the grant of a licence**

**6B.** Further to clause 6A, the CEO may grant a person a licence where -

(a) on 30 June 2013 the person held South Coast Purse Seine Limited Entry Fishery Licence SCPS 2174; and

(b) the person establishes to the satisfaction of the CEO that an application for the renewal of the licence referred to in paragraph (a) was not made due to the default of the holder; and

(c) the person applies for a licence before 29 August 2016.

#### **Fee**

**6C.** Fee for an application made under clause 6B

Where a person makes an application for a licence under clause 6B, a fee of \$3,000.00 is payable in respect of the costs of administering the Act.

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#### **Permitted means of taking small pelagic fish**

7. (2) A person must not use a purse seine net from an authorised boat to fish for an amount of small pelagic fish that is greater than the amount of small pelagic fish that can be -
- (a) brought aboard the authorised boat; and
  - (b) landed ashore and consigned to a person who has authority to process the fish.
- (3) A person who has taken any fish from the waters of the Fishery must not return the fish to WA waters unless it is not possible to bring and keep the fish aboard the authorised boat and to land the fish ashore.

#### **Prohibition on selling small pelagic fish**

8. A person shall not, for gain or reward, sell or otherwise dispose of small pelagic fish taken contrary to this notice.

#### **Closure of the Fishery**

9. (1) A person shall not use a purse seine net in the waters described in Schedule 3 during the period commencing 1 March and ending on 15 April in any year.
- (2) A person shall not use a purse seine net in the waters described in Schedule 4.
- (3) A person shall not use a purse seine net in the waters described in Schedule 5 during the period commencing 20 February and ending on 3 April in any year.
- (4) The CEO may, by notice published in the Gazette, prohibit fishing in a Zone of the Fishery for the period specified in the notice if in the opinion of the CEO the prohibition is necessary for the protection of the any part of the stocks of small pelagic fish or is required in the better interests of the Fishery;
- (5) A person must not fish in a Zone of the Fishery at a time when fishing in the Zone has been prohibited by a noticer made under subclause (4).

#### **Fishing in a Zone**

10. (1) A person shall not operate in a Zone of the Fishery unless the person is authorised to fish in the Fishery by a licence which specifies not less than 8 units of entitlement in respect of that Zone.
- (2) Notwithstanding subclause (1), a person may operate in Zone 2 of the Fishery under the authority of a licence which specifies not less than 8 Zone 1 units of entitlement.
- (3) Notwithstanding subclause (1), a person may operate in Zone 5 of the Fishery under the authority of a licence which specifies not less than 8 Zone 1, Zone 2, Zone 3 or Zone 4 units of entitlement.

#### **Licences**

11. (1) A licence expires on 30 June of the year following the year in which it was last renewed.
- (2) When a licence is issued or renewed the licence is to specify -
- (a) the name and address of the holder of the licence;
  - (b) the name and licensed fishing boat number of the boat that may be used for fishing under the authority of the licence;
  - (c) the licence number;
  - (d) the date of issue or renewal;
  - (e) the period for which the licence is issued;
  - (f) the number and type of units of entitlement conferred by the licence, and the Zones of the Fishery in which the fishing may be carried out under the authority of the licence; and
  - (g) any conditions imposed on the licence by the CEO.

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### **Capacity of the Fishery**

- 11A.** The capacity of the Fishery is –
- (a) 2,683 tonnes of small pelagic fish in Zone 1 and 2 (combined);
  - (b) 1,500 tonnes of small pelagic fish in Zone 3; and
  - (c) 1,500 tonnes of small pelagic fish in Zone 4.

### **Licence entitlements to equal capacity**

**11B.** (1) The sum of the entitlements to fish for small pelagic fish in Zones 1 and 2 that may be conferred by all the licences is equal to the capacity of the Fishery as provided for in clause 11A.

(2) The sum of the entitlements to fish for small pelagic fish in Zone 3 that may be conferred by all the licences is equal to the capacity of the Fishery as provided for in clause 11A.

(3) The sum of the entitlements to fish for small pelagic fish in Zone 4 that may be conferred by all the licences is equal to the capacity of the Fishery as provided for in clause 11A.

### **Licence entitlements to be expressed in terms of units**

**11C.** (1) The entitlement to fish for small pelagic fish in any zone of the Fishery conferred by a licence is to be expressed in terms of units of entitlement.

(2) A unit of entitlement is to be designated by reference to the zone to which it relates.

(3) The extent of the entitlement to fish for small pelagic fish in a zone or zones of the fishery that arises from a unit, to be known as the unit value, shall be determined as follows –

The unit value is -

$$\frac{C}{N} = U$$

Where: C is the capacity of the relevant zone or zones of the Fishery provided for in Clause 11A;

N is the total number of units relating to the relevant zone conferred by all the licences; and

U is the unit value.

### **Prohibition on fishing in excess of entitlement**

**11D.** A person must not fish for small pelagic fish in the waters of –

- (a) the Fishery unless the total quantity of fish taken under the authority of the relevant licence from the time it was last renewed is less than the value of the entitlement conferred by the relevant licence;
- (b) Zone 1 unless the total quantity of fish taken from the waters of Zone 1 is less than the value of the Zone 1 entitlement conferred by the relevant licence;
- (c) Zone 1 or Zone 2 unless the total quantity of fish taken from the waters of Zone 1 and Zone 2 is less than the value of the Zone 1 and Zone 2 entitlements conferred by the relevant licence;
- (d) Zone 3 unless the total quantity of fish taken from the waters of Zone 3 is less than the value of the Zone 3 entitlement conferred by the relevant licence;
- (e) Zone 4 unless the total quantity of fish taken from Zone 4 is less than the value of the Zone 4 entitlement conferred by the relevant licence;

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### **Units of entitlement**

- 12.** The entitlement of a licence -
- (a) in force on the commencement of 1 July 2004; or
  - (b) that is renewed on or after 1 July 2004 pursuant to an application for renewal made on or before 30 August 2004,
- shall on the commencement of 1 July 2004 or at the time of renewal, as the case may be, be equal to the entitlement (both by reference to the number of units and the zone to which those units relate) that was conferred by the licence when it last expired.

### **Grounds for refusal to transfer units of entitlement or to cancel a licence**

**12A** (1) The CEO may refuse an application for the transfer of a unit of entitlement on the grounds that -

- (a) the application is not in respect of a whole number of units;
- (b) the total fee for the transferor's licence has not been paid;
- (c) in the event of the transfer a licence would confer less than 8 units of a particular type of unit of entitlement; or
- (d) the value of the entitlement (including units temporarily transferred to the licence and excluding units temporarily transferred from the licence) that would be conferred by the licence after the transfer would be less than the total amount of small pelagic fish already taken under the authority of the licence during the period for which the licence has been granted or renewed.

(2) In the event that all the units of entitlement are transferred from a licence the CEO may cancel the licence.

### **Grounds to refuse to transfer a licence**

**12B.** For the purposes of section 140(2) of the Act, if the total fee for a licence has not been paid that shall be grounds on which the CEO may refuse to transfer that licence.

### **Temporary transfer of a unit of entitlement**

**12C.** Part of an entitlement under a licence may be temporarily transferred to another licence, for a period ending at the time the licence expires, provided that -

- (a) the value of the entitlement (including units temporarily transferred to the licence and excluding units temporarily transferred from the licence) that would be conferred by the licence after the transfer would not be less than the total amount of small pelagic fish already taken under the authority of the licence during the period for which the licence has been granted or renewed;
- (b) the transfer is of a whole number of units; and
- (c) the licence from which the units are being transferred will still confer at least one unit after the transfer has been effected.

[13. Deleted on 29.06.04. by South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2004.]

### **Catch and Disposal records**

- 14.** The master of an authorised boat shall, whenever small pelagic fish are taken -
- (a) complete in triplicate, in Part A of a consignment note in a Catch and Disposal Record Book, details of any small pelagic fish landed ashore;
  - (b) complete the consignment note within 30 minutes of landing ashore the small pelagic fish and shall not allow any of those fish to be removed from that place of landing unless the consignment note is completed;

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- (c) cause the original copy of the consignment note with the completed Part A to accompany any small pelagic fish from the place of landing to the place of the approved receiver specified on that consignment note;
- (d) forward, within 24 hours of landing ashore the small pelagic fish, the duplicate copy of the completed consignment note to the Regional Office of the Fisheries Department that is nearest to the place of landing;
- (e) retain the triplicate copy of the completed consignment note in the Catch and Disposal Record Book and produce the Catch and Disposal Record Book to a Fisheries Officer on demand;
- (f) retain all three copies of any cancelled, spoiled or unused consignment notes in the Catch and Disposal Record Book; and
- (g) not deliver or allow to be delivered any small pelagic fish for the purpose of sale to any processor or place other than the processor and place specified on a completed consignment note.

#### **Sale or transfer of small pelagic fish**

**14A.** A person who has taken any small pelagic fish under the authority of a licence must not sell or deal in the fish other than to an approved receiver.

#### **Approved receiver requirements**

**14B.** (1) An approved receiver must not take possession of any small pelagic fish from a licence holder or a person acting on behalf of a licence holder unless those fish are accompanied by the original copy of a consignment note completed in accordance with clause 14.

(2) An approved receiver must, within 72 hours of receiving any small pelagic fish, cause Part B of the consignment note to be accurately and fully completed in respect of the fish received.

(3) The approved receiver is to cause the completed consignment note to be forwarded to the Department of Fisheries Office at Albany within 72 hours of receiving the small pelagic fish.

#### **Approved receivers.**

**14C** (1) The CEO may approve a class of persons to be approved receivers of small pelagic fish by specifying the class of persons in a notice published in the Gazette.

(2) A notice published in the Gazette under clause 14C(1) may be amended or revoked by further notices published in the Gazette.

(3) Before making any notice under this clause the CEO must consult with the Purse Seine Management Advisory Committee.

#### **Boat replacement**

**15.** A boat specified on a licence may, on application by the licensee and with the written approval of the Director, be replaced by another boat provided that the length of the replacement boat does not exceed 20 metres.

#### **Payment by instalments**

**16.** (1) For the purposes of regulation 137(2) of the regulations, the total fee may be paid by instalments as specified in Schedule 6 if -

(a) an election to pay by instalments is made by the holder of a licence in accordance with subclause (2); and

(b) there is no other fee, charge or levy in respect of the licence which has not been paid at the time the election is received at the head office of the Department.

(2) An election, for the purposes of subclause (1), must be -

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- (a) made in writing;
  - (b) received at the head office of the Department prior to the due date for payment of the first instalment;
  - (c) accompanied by the first instalment plus the surcharge.
- (3) For the purposes of regulation 137(3) of the regulations, the surcharge shall be 3.13% of the total fee.
- (4) The holder of a licence, or a person acting on that persons behalf, must not fish in the Fishery at any time when any fee or surcharge payable in respect of the licence is outstanding.

#### **Procedure before this Plan may be amended or revoked**

**17.** For the purposes of section 65 of the Act the Purse Seine Management Advisory Committee is the advisory committee to be consulted before this Plan is amended or revoked.

#### **Offences**

**18.** A person who contravenes a provision of -

- (a) clause 5, 6, 7, 8, 9(5), 11D, 14, 14A, 14B or 16(4); or
- (b) clause 9(1), 9(2), 9(3), 9(4) or 10,

commits an offence and for the purposes of section 75 of the Act the provisions specified in paragraph (a) are major offences.

#### **Revocation**

**19.** *The Albany Purse Seine Limited Entry Fishery Notice 1991* and the *Bremer Bay Purse Seine Limited Entry Fishery Notice 1991* are revoked.

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### **Schedule 1**

All Western Australian waters off the south coast of Western Australia between Cape Leeuwin and 129° east longitude.

### **Schedule 2**

Zone 1:

The waters of King George Sound and adjacent waters enclosed by a line commencing at the intersection of the high water mark and 35°07.712' south latitude (Peak Head); thence extending east along the parallel to where it intersects with 118°11.25' east longitude; thence north along the meridian to the intersection of the high water mark at Cape Vancouver; thence generally westerly along the high water mark to the intersection of 35°00' south latitude and 117°56.965' east longitude; thence west along the parallel to the intersection with the high water mark at Emu Point; thence generally southerly along the high water mark to where it intersects with 117°55.00' east longitude; thence south along the meridian to the intersection of the high water mark on Vancouver Peninsular; thence along the high water mark to the commencement point.

Zone 2:

All the waters on the south coast of the State between Point D'Entrecasteaux and Cape Knob on the landward side of the 200 nautical mile Australian Fishing Zone limit excluding the waters of Zone 1.

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Zone 3:

All the waters on the south coast of the State between Cape Knob and 120° east longitude on the landward side of the 200 nautical mile Australian Fishing Zone limit.

Zone 4:

All Western Australian waters off the south coast of Western Australia between 120° east longitude and 129° east longitude.

Zone 5:

All Western Australian waters off the south coast of Western Australia between Cape Leeuwin and Point D'Entrecasteaux.

### Schedule 3

Torbay Beach:

All the waters of the Southern Ocean within 800 metres of the high water mark commencing at the high water mark on the easternmost extremity of Torbay Head; thence extending generally easterly along the high water mark and ending at its intersection with the prolongation of Plantagenet Location 3101.

Nanarup Beach:

All the waters of the Southern Ocean north of a line drawn between the easternmost extremity of Islet Point and the southernmost extremity of Cape Vancouver.

Bettys Beach:

All the waters of the Southern Ocean north of a line drawn between the south easternmost extremity of North Point and the southernmost extremity of Mermaid Point.

Fisheries Beach:

All the waters of the Southern Ocean below the high water mark and inshore of a line commencing from the high water mark of the northern most point of the headland immediately adjacent to the southern end of Fisheries Beach, and extending in a northerly direction to the high water mark of the southeastern most point of the headland immediately adjacent to the northern end of Bremer Bay Back Beach.

Bremer Bay:

All that portion of Bremer Bay bounded by a line commencing from the intersection of the high water mark and the north western corner of Bremer Bay Town Lot 131 and extending generally westerly, northerly, northeasterly and southerly along that high water mark to its intersection with a line drawn between the south western corner of the north western severance of Kent Location 1325 and the north western corner of Bremer Bay Town Lot 131; thence southwesterly along that line to the commencing point. (Public Plans: Bremer Bay Townsite; 447/80).

Other areas:

All the waters of the Southern Ocean below the high water mark and on the landward side of a line representing the 800 metre extension of the high water mark commencing from an eastern prolongation of the northern boundary of Kent Location 115; thence generally easterly to a line drawn due east from the high water mark of the eastern most extension of Hood Point.

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#### Schedule 4

All the waters of Princess Royal Harbour west of a line drawn due south from King Point to the opposite foreshore.

#### Schedule 5

All the waters of Bremer Bay on the south coast east of a line commencing from the western most point of the headland immediately adjacent to the eastern end of James Cove and extending to the north western most point of the headland immediately adjacent to the southern end of Peppermints Beach.

#### Schedule 6 – Payments by Instalments

- (a) The first instalment is 25 % of the total fee and is due for payment on or before 5 July in the year 2001 and subsequently 1 July of the year for which the licence is to be granted or renewed.
- (b) The second instalment is 25% of the total fee and is due for payment on or before 1 October immediately following the period specified in paragraph (a).
- (c) The third instalment is the total fee less the instalments provided for in paragraphs (a) and (b) and is due for payment on or before 1 January immediately following the period specified in paragraph (a).

[\*Published in The Gazette of 28 March 1991

\*\*Published in The Gazette of 28 March 1991.]

Dated this 14th day of February 1994.

MONTY HOUSE, Minister For Fisheries

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Original Management Plan and Amendment Information:

*South Coast Purse Seine Management Plan 1994* was first published in Government Gazette No. 24 on 22.02.94. (p.717-722).

Amendments: *South Coast Purse Seine Limited Entry Fishery Amendment Notice 1995* published in Government Gazette No. 64 on 23.05.95. (p. 1905); *South Coast Purse Seine Limited Entry Fishery Amendment Notice (No. 2) 1995* published in Government Gazette No. 76 on 16.06.95. (p. 2317); *South Coast Purse Seine Limited Entry Fishery Amendment Notice (No. 3) 1995* published in Government Gazette No. 132 on 29.09.95. (p. 4661-4663); *South Coast Purse Seine Fishery Management Plan Amendment 1996* published in Government Gazette No. 15 on 09.02.96. (p. 478); *South Coast Purse Seine Management Plan Amendment (No. 2) 1996* published in Government Gazette No. 45 on 29.03.96. (p. 1519); *South Coast Purse Seine Management Plan Amendment 1997* published in Government Gazette No. 48 on 27.03.97. (p. 1694); *South Coast Purse Seine Management Plan Amendment (No. 2) 1997* published in Government Gazette No. 48 on 27.03.97. (p. 1694-1697); *South Coast Purse Seine Management Plan Amendment (No. 3) 1997* published in Government Gazette No. 85 on 06.06.97. (p. 2655-2656); *South Coast Purse Seine Management Plan Amendment (No. 4) 1997* published in Government Gazette No. 85 on 06.06.97. (p. 2657-2658); *South Coast Purse Seine Management Plan Amendment (No. 5) 1997* published in Government Gazette No. 147 on 29.08.97. (p. 4909-4912); *South Coast Purse Seine Management Plan Amendment 1999* published in Government Gazette No. 47 on 26.03.99. (p. 1285-1287); *South Coast Purse Seine Management Plan Amendment (No. 2) 1999* published in Government Gazette No. 228 on 30.11.99. (p. 5956-5957); *South Coast Purse Seine Fishery Management Plan Amendment (No. 3) 1999* published in Government Gazette No. 246 on 24.12.99. (p. 6899); *South Coast Purse Seine Fishery Management Plan Amendment 2000* published in Government Gazette No. 62 on 31.03.00. (p. 1788); *South Coast Purse Seine Fishery Management Plan Amendment 2001* published in Government Gazette No. 102 on 25.05.01. (p. 2687); *South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2001* published in Government Gazette No. 121 on 29.06.01. (p. 3183-3184); *South Coast Purse Seine Fishery Management Plan Amendment 2002* published in Government Gazette No. 6 on 11.01.02. (p. 153); *South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2002* published in Government Gazette No. 116 on 28.06.02. (p. 3124-3125); *South Coast Purse Seine Fishery Management Plan Amendment 2003* published in Government Gazette No. 113 on 01.07.03. (p. 2667-2668); *South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2003* published in Government Gazette No. 202 on 23.12.03. (p. 5233-5234); *South Coast Purse Seine Fishery Management Plan Amendment 2004* published in Government Gazette No. 24 on 10.02.04. (p. 519); *South Coast Purse Seine Fishery Management Plan Amendment (No. 2) 2004* published in Government Gazette No. 113 on 29.06.04. (p. 2573-2580); *South Coast Purse Seine Fishery Management Plan Amendment 2007* published in Government Gazette No. 46 on 09.03.07. (p. 921-922). *South Coast Purse Seine Fishery Management Plan Amendment 2007* published in Government Gazette No. 171 on 23.09.16. (p. 4104).

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