

**FISHERIES ACT 1905**  
SPECIMEN SHELL LIMITED ENTRY FISHERY NOTICE 1995

Arrangement

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**FISHERIES ACT 1905**  
SPECIMEN SHELL LIMITED ENTRY FISHERY NOTICE 1995

Notice No. 689

376/83

Made by the Minister under section 32.

**Citation**

1. This notice may be cited as the Specimen Shell Fishery Management Plan 1995.

**Commencement**

2. This notice shall come into operation on 1 March 1995.

**Interpretation**

3. In this plan unless the contrary intention appears —
  - "authorised boat" means a licensed fishing boat which is authorised pursuant to this plan to be used in the Fishery;
  - "commencement date" means the date that this plan commences operation;
  - "Fishery" means the Specimen Shell Managed Fishery declared under clause 4;
  - "measured length" means, in relation to a 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 which authorises a person to fish for specimen shell in the Fishery;

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"licensee" means the licensee of a licence;

"nominated person" means a natural person approved by the CEO as the person other than the licensee who may take specimen shells in the Fishery;

"operate" means —

- (a) searching for specimen shells;
- (b) attempting to take specimen shells;
- (c) taking specimen shells; or
- (d) engaging in any activity that can reasonably be expected to result in the taking of specimen shells;

"plan" means the *Specimen Shell Management Plan 1995*;

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

"specimen shell" means fish of the scientific classification Phylum Mollusca except for the fish of the scientific classifications Order Sepioida, Order Teuthoidea, Order Octopoda, Genus *Pinctada* and *Pteria penguin*;

#### **Declaration of Fishery**

4. The taking of specimen shell in all Western Australian waters and land below the high water mark on the landward side of the 200 metre isobath, declared to constitute a limited entry fishery under the repealed Act, is taken to be a managed fishery under Item 8 of Schedule 3 to the Act, and may be referred to as the Specimen Shell Managed Fishery.

#### **Prohibition on operating in the Fishery**

5. (1) A person must not operate in the Fishery other than in accordance with this plan.  
 (2) Subclause (1) does not apply in regard to a person engaged in recreational fishing.

#### **Prohibition on selling, purchasing or dealing in specimen shell**

- 5A. (1) A person must not sell, purchase or deal in, or attempt to sell, purchase or deal in, specimen shell taken from the Fishery in contravention of this plan.  
 (2) A person must not sell, purchase or deal in, or attempt to sell, purchase or deal in, specimen shell, unless those specimen shell were taken by a person authorised to take specimen shell under clause 7.  
 (3) A person must not sell, purchase or deal in, or attempt to sell, purchase or deal in, any part of a specimen shell other than the shell.

#### **Exemption**

6. The provisions of this notice do not apply to a licensed professional fisherman using a licensed fishing boat which is —
- (a) being used in a limited entry fishery declared by notice under section 32 of the Act;
  - (b) authorised to be used to take molluscs in that limited entry fishery; and
  - (c) being used in accordance with the provisions of the notice published in the Gazette declaring that limited entry fishery in which the boat is being used.

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

7. A person shall not operate in the Fishery unless the person holds a professional fisherman's licence issued pursuant to the regulations and is either a —
- (a) licensee; or
  - (b) a nominated person whose professional fisherman's licence is endorsed to permit the holder to operate in the Fishery.

8. deleted

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### Licences

- 9.** (1) A person who satisfies the criteria as described in clause 8 may apply to the CEO for a licence.
- (2) A person may apply to the CEO for the renewal of a licence at any time within 30 days before the licence expires.
- (3) If the CEO considers that it is appropriate to do so, the CEO may in the case of an application under —
- (a) subclause (1) - approve the issue of a licence; or
  - (b) subclause (2) - approve the renewal of a licence.
- (4) A licence expires on 31 December of the year for which the licence was issued.
- (5) A licence shall only be issued in the name of a natural person.
- (6) A licence may be issued or renewed subject to conditions that shall be endorsed on it.
- (7) When a licence is issued or renewed, the licence shall be endorsed to show —
- (a) the name and address of the licensee;
  - (b) the name and licensed fishing boat number of the boat, if any, in respect of which it is issued;
  - (c) the licence number;
  - (d) the date of issue or renewal;
  - (e) the period for which the licence is valid;
  - (f) the nominated person, if any; and
  - (g) any conditions imposed on the licence.

### Nominated persons

- 10.** (1) A licensee may apply to the CEO for a person to be a nominated person.
- (2) The name and address of a person who is approved by the CEO to be a nominated person shall be endorsed on the licence.
- (3) A licensee may apply to the CEO for a nominated person to be replaced by another person.
- (4) Subject to the prior written approval of the CEO, a nominated person may be replaced by another person.
- (5) Only one nominated person shall be endorsed on a licence at any one time.
- (6) A person shall not be a nominated person on more than one licence.

### Criteria for a boat to be used in the Fishery

- 11.** (1) A person shall not use a boat in the Fishery unless —
- (a) that boat is endorsed on a Western Australian fishing boat licence issued pursuant to regulation 2 of the Regulations; and
  - (b) the boat is endorsed on a licence issued pursuant to this notice.
- (2) Unless otherwise specified on the licence, an authorised boat shall not be used to take any fish other than specimen shells.

### Permitted means of operating in the fishery

- 12.** (1) Unless otherwise authorised in writing by the Minister, a person shall not take specimen shells in the Fishery other than by hand.
- (2) A licensee or nominated person may use diving apparatus when operating in the Fishery.
- (3) A person shall not operate in the Fishery or permit or suffer another person to operate in the Fishery unless the licensee is actually present and in control of the fishing operations.

### Prohibited species

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13. A person operating in the Fishery shall not take or attempt to take any of the following species or genera —

- (a) all species of the genus *Haliotis*;
- (b) the genus *Pinctada*;
- (c) *Tectus niloticus*;
- (d) *Amusium balloti*;
- (e) the family *Tridacnidae*;
- (f) the genus *Mytilus*;
- (g) the genus *Pecten*.

#### **Transfer of a licence**

14. (1) A licensee may apply to the CEO to transfer a licence to another natural person.  
 (2) If the CEO considers it appropriate to do so, the CEO may approve an application made under subclause (1) and transfer that licence to another natural person.

#### **Replacement of an authorised boat**

15. (1) A licensee may apply to the CEO to replace an authorised boat with another boat.  
 (2) If the CEO considers it appropriate to do so, the CEO may approve an application made under subclause (1) and replace an authorised boat endorsed on a licence with another boat.  
 (3) Notwithstanding the provisions of subclause (1) and subclause (2) an authorised boat shall not be replaced by a boat which is more than 8 metres in length.

#### **Applications and prescribed fees**

16. An application to the CEO under this plan shall be —
- (a) made on the form approved by the CEO;
  - (b) lodged in accordance with the directions on the form; and
  - (c) accompanied with the fee, if any, prescribed by the Regulations.

#### **How the CEO may give notice**

17. The CEO 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 engage in the Fishery and the areas to which those licences apply.

Dated this 27th day of January 1995.

MONTY HOUSE, Minister for Fisheries

Note:

*This consolidated plan includes the original plan published in GG No.25 of 24.02.95 and the following subsequent amendments – Amendment (No.1) of 1997 published in GG 231 of 23.12.97; and Specimen Shell Management Plan Amendment 2010 published in GG No. 63 on 23.04.10.*

*[See regulation 183 of the Fish Resources Management Regulations 1995 concerning the citation of notices made under the Fisheries Act 1905 immediately before the commencement of those regulations.]*

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