

FISHERIES ACT 1905

WEST COAST (BEACH BAIT 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 means 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
- Schedule 3
- Schedule 4

FISHERIES ACT 1905

WEST COAST (BEACH BAIT FISH NET) LIMITED ENTRY FISHERY NOTICE 1995

Notice No. 661

FD 968/85

Made by the Minister under Section 32

Citation

1. This Notice may be cited as the *West Coast (Beach Bait 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 —
"anchovy" means the species of fish *Engraulis australis*;
"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 the waters in Schedule 1;

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- "authorized boat"** means a licensed fishing boat in respect of which a licence is issued pursuant to this Notice;
- "authorized person"** means the nominated operator of a licence, or if no nominated operator then the licensee of a licence;
- "bait net"** means a net with a mesh size less than 48 millimetres and includes a beach seine net and a small purse seine net but does not include a garfish net;
- "beach seine net"** means a winged hauling net which net —
- (a) may have a bunt;
 - (b) may be released from a boat or from the shore to surround a shoal of fish with a wall of net;
 - (c) has a headrope with floats on the surface of the water;
 - (d) has a weighted ground line;
 - (e) when hauled, retains the encircled fish in a pocket or bunt in the net; and
 - (f) has the dimensions mentioned in subclause 12(5);
- "blue sprat"** means the species of fish *Spratelloides robustus*;
- "class A licence"** means a limited entry fishery licence issued or renewed pursuant to this Notice, that is endorsed as a "class A licence" and that authorizes a person to use a licensed fishing boat to operate in the Fishery;
- "class B licence"** means a limited entry fishery licence issued or renewed pursuant to this Notice, that is endorsed as a "class B licence" and that authorizes a person to use a licensed fishing boat to operate in the waters of Statistical Block 3115 and Statistical Block 3215;
- "Cockburn Sound"** means the area of water described in Schedule 2;
- "crabs"** means any crab of the species *Portunus pelagicus*;
- "Fishery"** means the West Coast (Beach Bait Fish Net) Limited Entry Fishery declared under clause 4;
- "licence"** means any limited entry fishery licence issued or renewed pursuant to this Notice that authorizes a person to operate in the Fishery or any part of the Fishery;
- "licensed 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*;
- "small purse seine net"** means a winged hauling net which net —
- (a) may have a bunt;
 - (b) is released from a fishing boat or the shore to surround a shoal of fish with a wall of net;
 - (c) has a headrope with floats on the surface of the water;
 - (d) has a ground line;
 - (e) has attached to the groundline a series of rings through which is passed a purse line;

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- (f) when hauled, creates a purse which retains the encircled fish; and
- (g) has the dimensions mentioned in subclause 12(3);

"Statistical Block 3115" means all the waters of the Indian Ocean bounded by a line commencing at the intersection of the high water mark on the mainland and 31° south latitude; thence extending westerly to the intersection of 31° south latitude and 115° east longitude; thence southerly to the intersection of 32° south latitude and 115° east longitude; thence easterly to the intersection of the high water mark on the mainland and 32° south latitude; thence generally northerly along the high water mark to the commencing point;

"Statistical Block 3215" means all the waters of the Indian Ocean bounded by a line commencing at the intersection of the high water mark on the mainland and 32° south latitude; thence extending westerly to the intersection of 32° south latitude and 115° east longitude; thence southerly to the intersection of 33° south latitude and 115° east longitude; thence easterly to the intersection of the high water mark on the mainland and 32° south latitude; thence generally northerly along the high water mark to the commencing point; but excluding the waters of Cockburn Sound;

"supplementary licence" means a limited entry fishery 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;

"whitebait" means the species of fish *Hyperlophus vittatus*.

Declaration of limited entry fishery

4. It is hereby declared that the taking of fish or otherwise operating by bait net from the waters described in Schedule 1 shall constitute a limited entry fishery named the *West Coast (Beach Bait 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 applies and other than a person referred to in subclause (2), shall not operate by means of a bait net in the Fishery other than in accordance with this Notice.

(2) To the extent that a species of fish forms part of the *West Coast Purse Seine Limited Entry Fishery* and part of the 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 s 32(5) of the Act applies or a person referred to in subclause 5(2), shall not operate in the Fishery unless —

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

Criteria for issue of a licence

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

(a) the boat—

- (i) was used to take whitebait, blue sprat or anchovy (or any combination of these species) by net from the waters of Cockburn Sound in 1984 and during 1985 prior to 30 April 1985;
- (ii) was used to take at least 1000 kilograms in total of whitebait, blue sprat or anchovies (or any combination of these species) by net in at least two separate months in the period from 1 January 1984 to 30 April 1985 —
 - (A) from the waters of Cockburn Sound only; or
 - (B) from the waters of Cockburn Sound and any other waters described in Schedule 1; and
- (iii) was used to take at least 2000 kilograms in total of whitebait, blue sprat or anchovy (or any combination of these species) by net in any of the waters described in Schedule 1 in each year in at least three years of the four year period from 1 May 1985 to 30 April 1989; or

(b) the boat has replaced a boat to which paragraph (a) applies.

(2) The criteria that shall be applied to determine whether a class B licence shall be issued in relation to a licenced fishing boat, are that —

- (a) the boat was used to take at least 2000 kilograms of whitebait, blue sprat or anchovies (or a combination of more than one of these species) by net from the waters of Statistical Block 3115 and Statistical Block 3215 in each year in at least three years of the four year period from 1 July 1986 to 30 June 1990;
or
- (b) the boat has replaced a boat to which paragraph (a) applies.

(3) In subclause (1), "year" means the period from 1 May in any year to 30 April in the following year.

(4) In subclause (2), "year" means the period from 1 July in any year to 30 June in the following year.

Licence

8. (1) The licensee of a licensed fishing boat as described in —

- (a) Clause 7(1) - may apply to the Director for the issue of a class A licence; or
- (b) Clause 7(2) - may apply to the Director for the issue of a class B licence.

(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 subclause (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.

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- (6) If the Director considers that it is appropriate to do so, the Director may in the case of an application made 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.
- (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 of the boat 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;
 - (g) the class of the licence; and
 - (h) 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 any 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 crabs in the waters of the Fishery unless authorized by an authorization to do so.
- (2) A person shall not, pursuant to a class B licence, operate in Cockburn Sound.

Licensee or nominated operator to control operations within Fishery

11. Unless otherwise authorized in writing by the Director, an authorized person shall —
- (a) not operate in the Fishery from a boat other than the authorized boat;
 - (b) when the authorized boat is in the waters of the Fishery, be in physical proximity to the authorized boat; and
 - (c) be in control of or in charge of any operations being carried on in the Fishery pursuant to the licence.

Permitted means of operating in the Fishery

12. (1) A person shall not operate in the Fishery other than by means of a beach seine net or small purse seine net.

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- (2) Any net (except for a small purse seine net) permitted to be used in the Fishery —
- (a) shall be hauled from a beach;
 - (b) shall not be hauled with the assistance of any mechanical aid whatsoever;
 - (c) may contain a pocket or bunt; and
 - (d) may be used as a set net.
- (3) A small purse seine net used in the Fishery shall have —
- (a) a minimum mesh size of 9 millimetres and maximum mesh size of 38 millimetres;
 - (b) a length not exceeding 90 metres; and
 - (c) a stretched depth not exceeding 18 metres.
- (4) A small purse seine net may only be used in the waters in Schedule 4.
- (5) A beach seine net used in the Fishery shall have —
- (a) a minimum mesh size of 10 millimetres and maximum mesh size of 38 millimetres;
 - (b) a length not exceeding 180 metres; and
 - (c) a stretched depth not exceeding 5 metres.
- (6) A person shall not operate by means of a beach seine net in the waters described in Schedule 3 at any time.

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 to operate in the *West Coast (Beach Bait Fish Net) Limited Entry Fishery* 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.

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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, 4 and 7)

All the waters of the Indian Ocean between the mouth of the Moore River and Tim's Thicket.

Schedule 2
(clause 3)

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.

Schedule 3
(clause 12)

Item 1. Waterman

All the waters of the Indian Ocean within 300 metres of the high water mark between the prolongation westerly of the northern side of Elsie Street, Waterman and the prolongation westerly of the southern side of Malcolm Street, Waterman.

Item 2. Ocean Reef and Hillarys Boat Harbours

All the waters of the Ocean Reef and Hillarys Boat Harbours and all the waters of the Indian Ocean within 200 metres of the groyne and entrances of those harbours.

Item 3. Rous Head Boat Harbour

All waters of the Rous Head Boat Harbour adjacent to the North Mole including the waters of the Indian Ocean within 200 metres of the Rous Head Boat Harbour wall.

Item 4. Rous Head Boat Harbour to Swanbourne

All that portion of the Indian Ocean bounded by a line commencing at the point of intersection of the northern extremity of the Rous Head Boat Harbour and the high water mark; thence extending in a north easterly direction along the high water mark to a point 800 metres south of the drain at Swanbourne; thence 400 metres west; thence south westerly to the intersection of the northern boundary of the closure described in Item 3 of this schedule but excluding the waters described in Item 5.

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Item 5. Port Beach

All that portion of the Indian Ocean at Port Beach bounded by a line commencing at the western most extremity of the groyne at the northern end of Rudderham Drive at Port Beach; thence extending easterly along the northern edge of the groyne to its intersection with the high water mark; thence north easterly along the high water mark for 200 metres, thence west for 100 metres, thence south for 200 metres to its intersection with a line extending west from the commencing point; thence along that line to the commencing point.

Item 6. City Beach

All that portion of the Indian Ocean at City Beach bounded by a line commencing at a point on the foreshore 800 metres south of the southern groyne and extending in a northerly direction to a point 800 metres north of the northern groyne with a width of 800 metres from the high water mark.

Item 7. Scarborough Beach

All that portion of the Indian Ocean at Scarborough Beach bounded by a line commencing at a point on the foreshore fronting the western extremity of Reserve Street, and extending in a southerly direction to a point 400 metres south of Brighton Road and to a width of 800 metres from the high water mark.

Item 8. Yanchep Beach

All that portion of the Indian Ocean at Yanchep Beach bounded by a line commencing at a point on the foreshore 800 metres northwest of the north western corner of Reserve 12439 and extending in a generally south easterly direction to a point on the foreshore 400 metres southeast of the southwestern corner of the said reserve with a width of 800 metres from the high water mark.

Item 9. Warnbro Sound and Shoalwater Bay

All that portion of Warnbro Sound, the Indian Ocean and Shoal water Bay bounded by a line starting from a point on the high water mark of Warnbro Sound situated in prolongation southerly of the eastern side of June Road and extending southerly along that prolongation to a line parallel to and 800 metres from the high water mark of Warnbro Sound aforesaid; thence generally westerly along that line to its intersection with a line parallel; to and 1600 metres from the high water mark of Penguin Island; thence generally southerly, westerly, northerly and easterly along that line to a point situated south from Cape Peron; thence north to that Cape and thence generally southeasterly along the high water mark of Shoal Water Bay and Warnbro Sound to the commencing point.

Item 10. 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.

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Item 11. 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 12. 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 13. 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 14. 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.

Item 15. Channel Entrance

All the waters of the Indian Ocean lying within a radius of 800 metres of the northernmost extremity of the mole situated on the west side of the channel entrance to Peel Harbour.

**Schedule 4
(Clause 12)**

Item 1. Ocean Reef, Hillarys and Mindarie Keys Boat Harbours

All the waters of the Ocean Reef, Hillarys and Mindarie Keys Boat Harbours and all the waters of the Indian Ocean within 50 metres of the groynes and entrances of those harbours.

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Item 2. Port Beach

All that portion of the Indian Ocean at Port Beach bounded by a line commencing at the western most extremity of the groyne at the northern end of Rudderham Drive at Port Beach; thence extending easterly along the northern edge of the groyne to its intersection with the high water mark; thence north easterly along the high water mark for 200 metres, thence west for 100 metres; thence south for 200 metres to its intersection with a line extending west from the commencing point; thence along that line to the commencing point.

Item 3. Cockburn Sound (East of Rockingham)

All that portion of Cockburn Sound bounded by lines starting from a point on the high water mark situate in prolongation northwesterly of the mid-line of Flinders Lane, Rockingham and extending generally northeasterly along the high water mark to a point situate 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 southwesterly 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 starting point.

Item 4. Inner Harbour (Fremantle)

All the waters of the area described as Berth 12A, Inner Fremantle Harbour, North Quay Fremantle, on a plan called the "Fremantle Port Inner Harbour Plan" published on 1 April 1993 by the Fremantle Port Authority.

Item 5. Jervois Bay Boat Harbours

All the waters of the Jervois Bay Boat Harbours and all the waters of the Indian Ocean within 50 metres of the groynes and entrances of those harbours.

Item 6. Fremantle Sailing Club, Fremantle Fishing Boat and Challenger Boat Harbours

All the waters of the Fremantle Sailing Club, Fremantle Fishing Boat and Challenger Boat Harbours and all the waters of the Indian Ocean within 50 metres of the groynes and entrances of those harbours.

Item 7. Rous Head Boat Harbour

All the waters of the Rous Head Boat Harbour and all the waters of the Indian Ocean within 50 metres of the groynes and entrances of that harbour.

Item 8. Robert Point (Halls Head) to Tim's Thicket Point

All the waters of the Indian Ocean within 800 metres of high water between Robert Point (Halls Head, Mandurah) south to Tim's Thicket Point at latitude 32° 39' 5".

[Declared by notice published in the Gazette of 8 September 1989.]*

Dated this 17th day of February 1995

MONTY HOUSE, Minister for Fisheries

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