

FI301*

Fish Resources Management Act 1994

Fish Resources Management Amendment Regulations (No. 5) 2003

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Fish Resources Management Amendment Regulations (No. 5) 2003*.

2. Commencement

These regulations come into operation on 1 July 2003.

3. The regulations amended

The amendments in these regulations are to the *Fish Resources Management Regulations 1995**.

[* Reprinted as at 17 May 2002.

For amendments to 4 June 2003 see *Western Australian Legislation Information Tables for 2002, Table 4, p. 122-3.*]

4. Regulation 64 amended

After regulation 64(6) the following subregulation is inserted —

“

- (6a) A person who has conducted a fishing tour on a boat must complete the records referred to in subregulation (1) before any participant in the tour leaves the boat.

”.

5. Regulation 117 amended

Regulation 117(7)(b) is amended by deleting “an aquatic eco-tour or”.

6. Regulation 128A amended

- (1) Regulation 128A(2)(b) is amended by deleting “marine nature reserve or an area of a marine park from which recreational or commercial fishing is excluded under” and inserting instead —
“ marine reserve as defined in section 3 of ”.
- (2) Regulation 128A(3) is amended by inserting after “fishing tour operator’s licence” —
“ or a restricted fishing tour operator’s licence ”.

7. Regulation 128B amended

Regulation 128B(1)(b) is amended by deleting “and commercial and recreational fishing”.

8. Regulation 128C repealed

Regulation 128C is repealed.

9. Regulation 128E amended

Regulation 128E(1) is repealed and the following subregulation is inserted instead —

- “
- (1) The holder of an aquatic eco-tourism operator’s licence must keep records relevant to operations conducted under that licence relating to the times and places of carrying out aquatic eco-tourism for a commercial purpose and must retain those records for a period of not less than 7 years.
- ”.

10. Regulation 128F repealed

Regulation 128F is repealed.

11. Regulation 128G amended

- (1) Regulation 128G(2) is repealed and the following subregulation is inserted instead —

- “
- (2) The person in charge of any boat, vehicle or aircraft being used for an aquatic eco-tourism trip must not —
 - (a) commence the tour with any fish on the boat, vehicle or aircraft; or
 - (b) allow any fish to remain on the boat at the end of the tour.

Penalty: \$10 000.

”.

- (2) Regulation 128G(3) is repealed.
- (3) Regulation 128G(4) is amended by deleting “(1)(b),”.

12. Regulation 128H replaced

Regulation 128H is repealed and the following regulation is inserted instead —

“

128H. Boat not to be used for both commercial fishing and an aquatic eco-tour during a single trip

A person who uses a licensed fishing boat that is specified in an aquatic eco-tourism operator’s licence for or in connection with commercial fishing and an aquatic eco-tour in the course of a single trip commits an offence.

Penalty: \$5 000.

”.

13. Regulation 128I amended

Regulation 128I is amended by inserting after “fishing tour operator’s licence” —

“ or a restricted fishing tour operator’s licence ”.

14. Regulation 128J amended

- (1) After regulation 128J(1) the following subregulation is inserted —

“

- (1a) If a person applies to the Executive Director for the grant of a restricted fishing tour operator’s licence to conduct a fishing tour for a commercial purpose in a zone set out in Schedule 15 and the Executive Director is satisfied that —

- (a) the person is a fit and proper person to hold the licence; and
- (b) it is in the interests of the management of commercial and recreational fishing to grant the licence,

the Executive Director may grant to the person a restricted fishing tour operator’s licence for that zone.

”.

- (2) Regulation 128J(2) is amended by inserting after “fishing tour operator’s licence” —

“ or a restricted fishing tour operator’s licence ”.

15. Regulation 128K amended

Regulation 128K is amended by inserting after “commercial purpose” —

“
or to conduct a fishing tour for a commercial purpose
”.

16. Regulation 128L amended

Regulation 128L(1)(a) is amended by inserting after “fishing tour operator’s licence” —

“ or the restricted fishing tour operator’s licence ”.

17. Regulation 128M amended

Regulation 128M is amended as follows:

- (a) by inserting after “fishing tour operator’s licence” —
“ or a restricted fishing tour operator’s licence ”;
- (b) by deleting “aboard a boat being used for or in connection with a fishing tour” and inserting instead —
“ participating in a fishing tour trip ”.

18. Regulation 128N replaced

Regulation 128N is repealed and the following regulation is inserted instead —

“

128N. Participants in a fishing tour to be required to fish holding one line or one rod and line

Subject to regulation 128Q, a person who holds a fishing tour operator’s licence or a restricted fishing tour operator’s licence or a person who is in charge of a fishing tour trip must not permit or suffer any person participating in a fishing tour trip to fish during the trip other than by holding one line or one rod and line.

Penalty: \$2 000.

”.

19. Regulation 128O amended

Regulation 128O is amended by deleting “or a person acting on that person’s” and inserting instead —

“
or a restricted fishing tour operator’s licence or a person acting on a licence holder’s
”.

20. Regulation 128P repealed and regulations 128P, 128Q, 128R and 128S inserted

Regulation 128P is repealed and the following regulations are inserted instead —

“

128P. Boat not to be used for both commercial fishing and a fishing tour during a single trip

A person who uses a licensed fishing boat that is specified in a fishing tour operator's licence or a restricted fishing tour operator's licence for or in connection with commercial fishing and a fishing tour in the course of a single trip commits an offence.

Penalty: \$5 000.

128Q. Participants in certain fishing tours not to fish from the boat other than by holding one line

A person participating in a fishing tour on a boat specified in a restricted fishing tour operator's licence must not fish from the boat other than by holding one line.

Penalty: \$2 000.

128R. Person in charge of restricted fishing tour not to permit rod on boat

A person in charge of a fishing tour conducted by virtue of a restricted fishing tour operator's licence must not permit a rod to be kept on board a boat during any period that the boat is being used for the tour.

Penalty: \$5 000.

128S. Limit on fishing on a restricted fishing tour

(1) In this regulation —

“**restricted fishing tour**” means a fishing tour conducted by virtue of a restricted tour operator's licence.

(2) The master of a boat used for a restricted fishing tour must not allow a participant on the tour to bring ashore any fish from the boat.

Penalty: \$5 000.

(3) The master of a boat being used for a restricted fishing tour must not —

- (a) commence the tour with any fish on the boat; or
- (b) allow any fish to remain on the boat at the end of the tour.

Penalty: \$10 000.

- (4) A person in charge of a restricted fishing tour must not allow participants on the tour to take more than a reasonable quantity of fish for a meal for those on the boat at the time the fish is taken.

Penalty: \$5 000.

- (5) It is a defence in proceedings for an offence against subregulation (3) for the person charged to prove that the fish was purchased from a person other than a participant on the tour for the purpose of providing meals for participants on a tour on the boat.

”.

21. Regulation 130A amended

Regulation 130A is amended by deleting “or a fishing tour operator’s licence” and inserting instead —

“

, a fishing tour operator’s licence or a restricted fishing tour operator’s licence

”.

22. Schedule 1 amended

- (1) Schedule 1 Part 2 item 20 is amended by inserting after “Aquatic eco-tourism operator’s licence (reg. 128B)” —
- “ or restricted fishing tour operator’s licence (reg. 128J) ”.
- (2) Schedule 1 Part 3 item 4 is amended by inserting after “Aquatic eco-tourism operator’s licence” —
- “ or restricted fishing tour operator’s licence ”.

23. Schedule 12 amended

- (1) Schedule 12 Part 2 item 1 is amended by inserting after “108” —
- “ , 128N ”.
- (2) Schedule 12 Part 2 item 3 is amended by deleting “128L, 128N, 130” and inserting instead —
- “
- 128E(2) (in the case of an individual), 128L(3), 128Q, 130, 130A
- ”.
- (3) Schedule 12 Part 2 item 4 is amended by deleting “128F, 128H, 128I, 128K, 128M, 130A” and inserting instead —
- “
- 128E(1), 128E(2) (in the case of a body corporate), 128E(4), 128E(6), 128H, 128L(1), 128M, 128S(2)
- ”.

- (4) Schedule 12 Part 2 item 5 is amended by deleting “128E, 128G(1), 128G(2), 128O,” and inserting instead —

“
 128G(1), 128G(2), 128I, 128K, 128R, 128S(3), 128S(4)
 ”.

- (5) Schedule 12 Part 2 is amended by inserting the following item after item 5 —

“
 6. Regulation 128O, relating to —
 (a) category 1 fish 400
 (b) category 2 fish 200
 (c) category 3 fish 100
 (d) category 4 fish 100
 ”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.