

Fish Resources Management Amendment Regulations 2021

SL 2021/118

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Fish Resources Management Amendment Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Fish Resources Management Regulations 1995*.

4. Regulation 3 amended

- (1) In regulation 3(1) delete the definitions of:

one day

whole fish

- (2) In regulation 3(1) insert in alphabetical order:

day trip —

- (a) means a voyage undertaken by a person on a boat; but
- (b) does not include a voyage undertaken by a person on a boat if the voyage —
 - (i) takes place over more than one day; or
 - (ii) is undertaken on a fishing boat for a commercial purpose;

demersal finfish means a fish of a species listed in Schedule 3 Division 1 Subdivision 1 column 1 or Subdivision 2 column 1;

extended fishing tour means a voyage undertaken by a person on a charter boat that takes place over more than one day;

large pelagic finfish means a fish of a species listed in Schedule 3 Division 2 column 1;

one day means —

- (a) unless paragraph (b) applies — a period of 24 hours commencing at midnight; or
- (b) in relation to fishing for marron or prawns or fishing by means of a fishing net that is set — a period of 24 hours commencing at midday;

whole fish means a finfish that —

- (a) in the case of any type of finfish, including a large pelagic finfish —
 - (i) is entire; or
 - (ii) is entire except that it has been gilled or gutted, or both;

or

- (b) in the case of a large pelagic finfish — has been cut into a maximum of 2 pieces, but —
 - (i) has not otherwise been modified; or
 - (ii) has not otherwise been modified except that it has been gilled or gutted, or both.

- (3) In regulation 3(1) in the definition of **single-sided fillet** delete “fish;” and insert:

finfish;

5. Regulation 14A deleted

Delete regulation 14A.

6. Regulation 14 amended

- (1) Delete regulation 14(3).
- (2) In regulation 14(4) delete “or (3)”.
- (3) In regulation 14(5) delete “Subregulations (3) and (4) do” and insert:

Subregulation (4) does

Note: The heading to amended regulation 14 is to read:

How certain types of finfish must be landed

7. Regulation 16C deleted

Delete regulation 16C.

8. Part 4 Division 3 Subdivision 1 heading replaced

Delete the heading to Part 4 Division 3 Subdivision 1 and insert:

Subdivision 1 — Possession limits for finfish

9. Regulation 16D replaced

Delete regulation 16D and insert:

16D. Finfish possession limits (Act s. 51(1))

- (1) For the purposes of section 51(1) of the Act, the maximum quantity of finfish (other than Bait Fish, Garfish, Hardyhead or Mullet) that a person may be in possession of in the circumstances set out in column 1 of the Table is the quantity set out in column 2 opposite the circumstances.

Table

Item	Column 1 Circumstances	Column 2 Possession limit
1.	The fish is located anywhere.	(a) 20 kg of fillets; or (b) 10 kg of fillets and one day's bag limit of whole fish or fish trunks; or (c) 2 days' bag limit of whole fish or fish trunks.
2.	Item 4 does not apply to the person and the fish is located at a place that is not the person's principal place of residence.	(a) 20 kg of fillets, of which any amount in excess of 10 kg is fillets of large pelagic finfish that have the skin attached; or (b) 10 kg of fillets and one day's bag limit of whole fish or fish trunks; or (c) 2 days' bag limit of whole fish or fish trunks.

Item	Column 1 Circumstances	Column 2 Possession limit
3.	The person is on, or has just completed, a day trip and the fish were taken during the course of the trip.	(a) Where all of the fish is filleted, 20 kg of fillets, of which any amount in excess of 10 kg is fillets of large pelagic finfish that have the skin attached; or (b) where not all of the fish is filleted, one day's bag limit of whole fish or fish trunks, not more than 10 kg of which is filleted.
4.	The person is on, or has just completed, an extended fishing tour and the fish were taken during the course of the tour.	(a) 20 kg of fillets; or (b) 10 kg of fillets and one day's bag limit of whole fish or fish trunks; or (c) 2 days' bag limit of whole fish or fish trunks.
5.	The fish is located in the Freycinet Estuary or the adjacent land area west of Shark Bay Road and north of Useless Loop Road.	(a) 5 kg of fillets; or (b) one day's bag limit of whole fish or fish trunks.
6.	The fish is located in — (a) the Abrolhos Islands reserve; or (b) the Abrolhos Islands Fish Habitat Protection Area.	(a) 10 kg of fillets; or (b) one day's bag limit of whole fish or fish trunks.
7.	The fish is barramundi and is located at a place that is not the person's principal place of residence.	2 barramundi.

Notes for this Table:

1. The possession limit set out in item 1 applies to a person in each case.
2. If 1 or more of the possession limits set out in items 2 to 7 also apply to the person, each of those limits and the limit set out in item 1 apply simultaneously.

- (2) For the purposes of —
- (a) the Table to subregulation (1), fish on a boat that are not in the possession of any other person on the boat are taken to be in the possession of the master of the boat; and
 - (b) determining the number of fish in a person's possession under column 2 paragraph (b) of item 3 or item 7 of the Table to subregulation (1), 2 single-sided fillets are taken to be equivalent to 1 whole fish.

16DA. Dhufish on boats

The master of a boat, other than a fishing boat, being used for taking fish in the West Coast Region must ensure that the number of West Australian Dhufish on, or attached to, the boat, and any tender or other vessel operating with or attached to the boat, at any one time —

- (a) if the boat is a charter boat — is not more than 6; or
- (b) otherwise — is not more than 2.

Penalty: a fine of \$10 000 and the penalty provided in section 222 of the Act.

16DB. Fish on fishing boats (commercial)

- (1) The master of a fishing boat must ensure that the number of fish of the types specified in column 1 of an item of the Table that are on, or attached to, the boat at any one time does not exceed the number set out in column 2 of that item.

Table

Item	Column 1 Types of fish	Column 2 Number of fish
1.	Billfish (Marlins, Sailfish and Spearfish) Swordfish Tuna, Southern Bluefin	0
2.	Tuna, Bigeye	2

Item	Column 1 Types of fish	Column 2 Number of fish
	Tuna, Yellowfin	
3.	Albacore Mackerel, Blue Mackerel, Common Jack Mackerel, Peruvian Jack Redbait Scad, Yellowtail Tuna, Longtail Tuna, Skipjack Fish of the <u>Family</u> Bramidae when taken in WA waters outside the 200 m isobath	10

Penalty for this subregulation:

- (a) for an individual, a fine of \$5 000;
 - (b) for a body corporate, a fine of \$10 000.
- (2) This regulation does not apply —
- (a) to fish taken in accordance with a fishing permit or statutory fishing right granted under the Commonwealth Act; or
 - (b) if all the fish held or transported on the fishing boat were taken solely for a non-commercial purpose.
- (3) If this regulation applies, the fish referred to in subregulation (1) are taken not to be in the possession of a person for the purposes of regulation 16D.

10. Part 4 Division 3 Subdivision 2 heading inserted

Before regulation 16E insert:

Subdivision 2 — Possession limits for other fish

11. Regulation 16E amended

- (1) Delete regulation 16E(1) to (3) and (3E).
- (2) Delete regulation 16E(5) and insert:

- (5) For the purposes of subregulation (3B), fish on a boat that are not in the possession of any other person on the boat are taken to be in the possession of the master of the boat.

12. Regulation 16GB deleted

Delete regulation 16GB.

13. Regulation 16GE deleted

Delete regulation 16GE.

14. Part 4 Division 3 Subdivisions 3 and 4 deleted

Delete Part 4 Division 3 Subdivisions 3 and 4.

15. Regulation 21A inserted

At the beginning of Part 4 Division 4 insert:

21A. Terms used

- (1) In this Division —
package means any type of wrapping, package or container;
store, in relation to fish, includes the act of placing the fish in a refrigerator, freezer, icebox or other storage container.
- (2) For the purposes of this Division, a person is, in the absence of proof to the contrary, taken to have packaged or stored fish if the person uses or has control of —
 - (a) a vehicle in which the fish is located; or
 - (b) a refrigerator, freezer, icebox or other storage container in which the fish is stored.

16. Regulation 22 amended

- (1) Delete regulation 22(1) and insert:

- (1) A person who packages or stores finfish must ensure that a label, as described in subregulation (2), is securely attached —
 - (a) to each package containing finfish; and
 - (b) to each finfish that is stored other than in a package.

Penalty for this subregulation: a fine of \$5 000 and the penalty provided in section 222 of the Act.

- (2) In regulation 22(2):
 - (a) delete “subregulation (1)” and insert:

subregulation (1),
 - (b) in paragraphs (b) and (c) delete “fish” and insert:

finfish
- (3) In regulation 22(3):
 - (a) in paragraphs (a) and (b) delete “fish” and insert:

finfish
 - (b) delete paragraph (c) and insert:
 - (c) Bait Fish, Garfish, Hardyhead or Mullet; or
 - (c) in paragraph (d) delete “fish —” and insert:

finfish —
 - (d) in paragraph (d)(i) delete “fish; and” and insert:

finfish; and
 - (e) in paragraph (d)(ii) and (e) delete “fish” and insert:

finfish
 - (f) after paragraph (e) insert:
 - (ea) finfish to which the labelling requirements under regulation 22AA apply; or
 - (g) in paragraph (f) delete “fish” (1st to 4th occurrences) and insert:

finfish
 - (h) in paragraph (f)(i) delete “regulation 16D; and” and insert:

regulation 16D(1) Table item 1; and

- (i) in paragraph (f)(ii) delete “fish” and insert:

finfish

- (4) Delete regulation 22(4) and (5).

Note: The heading to amended regulation 22 is to read:

Labelling requirements for packed or stored finfish

17. Regulation 22AA inserted

At the end of Part 4 Division 4 insert:

22AA. Labelling requirements for higher quantity of finfish taken on extended fishing tour

- (1) This regulation applies if —
- (a) finfish (other than Bait Fish, Garfish, Hardyhead or Mullet) are taken during an extended fishing tour; and
 - (b) the finfish are brought onto land by a person at the completion of the tour; and
 - (c) the quantity of finfish brought onto land by the person is greater than the possession limit for finfish set out in regulation 16D(1) Table item 2.
- (2) A person who packages or stores the finfish must ensure that a label, as described in subregulation (3), is securely attached —
- (a) to each package containing the finfish; and
 - (b) to each finfish that is stored other than in a package.

Penalty for this subregulation: a fine of \$5 000 and the penalty provided in section 222 of the Act.

- (3) For the purposes of subregulation (2), a label must —
- (a) be not less than 75 mm in length and 25 mm in width; and
 - (b) have legibly written on it —
 - (i) the full name of the owner of the package or finfish to which the label is attached; and
 - (ii) the name of the boat on which the extended fishing tour was undertaken; and

(iii) the date on which the finfish was brought onto land following completion of the tour;

and

(c) be attached to the package or finfish in such a manner that it is clearly visible for inspection.

18. Regulation 64AA amended

In regulation 64AA(2B):

(a) delete paragraphs (b) and (c);

(b) in paragraph (d) delete “purpose.” and insert:

purpose; and

(c) after paragraph (d) insert:

(e) if the fish is a finfish —

(i) the fish, or the package containing it, is labelled in accordance with regulation 22 or 22AA; and

(ii) the person whose name is on the label is staying in accommodation provided by the exempt business.

19. Regulation 64OAA amended

(1) In regulation 64OAA(1) delete the definition of *demersal scalefish*.

(2) In regulation 64OAA(3):

(a) delete “demersal scalefish” and insert:

demersal finfish

(b) delete “in the West Coast Region”.

20. Regulation 64OE amended

(1) In regulation 64OE(1) delete “bait fish.” and insert:

Bait Fish, Garfish, Hardyhead or Mullet.

(2) At the end of regulation 64OE(1) insert:

Penalty for this subregulation: a fine of \$2 000.

- (3) In regulation 64OE(2) delete “bait fish.” and insert:

Bait Fish, Garfish, Hardyhead or Mullet.

- (4) At the end of regulation 64OE(2) insert:

Penalty for this subregulation: a fine of \$2 000.

- (5) Delete regulation 64OE(4).

- (6) At the end of regulation 64OE delete the Penalty.

Note: The heading to amended regulation 64OE is to read:

Use of throw nets

21. Regulation 64W amended

In regulation 64W(1)(b)(i) delete “regulation 16D(1); and” and insert:

regulation 16D(1) Table items 1, 2 and 4; and

22. Regulation 65A amended

In regulation 65A(1) delete “(*demersal finfish*)”.

23. Regulation 65B amended

In regulation 65B(1) delete “(*demersal finfish*)”.

24. Regulation 65C amended

In regulation 65C(1) delete “(*large pelagic finfish*)”.

25. Regulation 156 amended

In regulation 156 in the Table:

(a) delete “14(3),”;

(b) after “16B,” insert:

16DA,

(c) delete “22,” and insert:

22(1), 22AA(2),

26. Schedule 7 Division 1 amended

In Schedule 7 Division 1 delete “Family Epinephelidae” and insert:

Families Epinephelidae and Serranidae

27. Schedule 12 Part 2 amended

In Schedule 12 Part 2:

(a) in item 3 delete “22,” and insert:

22(1), 22AA(2),

(b) in item 4 delete “14(3),”;

(c) in item 4 delete “64OE,” and insert:

64OE(1) and (2),

(d) in item 5 delete “16E(3E),” and insert:

16DA

V. MOLAN, Clerk of the Executive Council.
