



Aquatic Resources Management Act

The next evolution in Aquatic Resource Management in Western Australia

ARMA LICENSING FRAMEWORK

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ARMA AND A REVIEW OF THE LICENSING FRAMEWORK

Under the *Fish Resources Management Act 1994* (FRMA) and the *Pearling Act 1990* (PA) a number of licences and permits (authorisations) have been implemented over time to provide access or permission to undertake commercial fishing, recreational fishing, aquaculture and pearling activities.

The introduction of the *Aquatic Resources Management Act 2016* (ARMA) provides an opportunity to review the objectives behind the current licensing framework and whether it is necessary for all existing authorisations to be retained. Where it is intended to retain an authorisation, there is scope to simplify administrative processes (e.g. extending licensing periods) to reduce the burden on industry and Government.

This paper focusses on a number of licences currently in effect for commercial fishing and pearling for which there is power to implement as regulation licences under the ARMA. These authorisations are:

- Fishing Boat Licences;
- Commercial Fishing Licences;
- Fish Processing Permits and Licences;
- Carrier Boat Licences;
- Pearl Boat Licences;
- Pearl Master's Licences; and
- Pearl Diver's Licences.

Note that regulation licences relating to particular activities (e.g. recreational fisheries and fishing tour operations) will not be discussed. This paper also does not cover licences specifically referenced in the ARMA; being Managed Fishery Licences and Aquaculture Licences. Separate documents dealing with these licences are currently being prepared.

The Department is seeking comment from stakeholders on the ideas and proposals set out below.

LICENCES UNDER THE ARMA

The ARMA provides power to introduce many licence types under regulations.

Specifically, section 131 of the ARMA enables regulations to make provision in relation to the licensing of any of the following –

- (a) Persons undertaking commercial fishing;*
- (b) Aboriginal bodies corporate undertaking commercial fishing, but a licence granted or renewed under this provision cannot be transferred despite any other provision of this Act;*
- (c) Masters of boats used for purposes relating to commercial fishing;*
- (d) Persons undertaking diving for purposes relating to commercial fishing, aquaculture or aquatic eco-tourism;*
- (e) Persons taking aquatic organisms (including protected aquatic organisms) for broodstock and other aquaculture purposes;*

- (f) *Individuals undertaking recreational fishing;*
- (g) *Boats (including foreign boats) used for purposes relating to recreational fishing;*
- (h) *Fishing boats;*
- (i) *Boats used for transporting or trans-shipping aquatic organisms for a commercial purpose;*
- (j) *Boats used in connection with aquaculture;*
- (k) *Charter boats;*
- (l) *Persons providing aquatic eco-tourism or fishing tours for a commercial purpose;*
- (m) *Persons who possess, unload, transport, consign, process, handle, label, deliver, receive, store, package, purchase or sell aquatic organisms.*

Commercial Fishing Licence (CFL), Pearl Boat Master's Licence (PML) and Pearl Diver's Licence (PDL)

Currently, any person who engages in commercial fishing (including selling the fish taken during the operation) must hold a CFL with the exception of certain persons who take fish from private property for sale to an appropriately authorised Aquaculture Licence holder).

Under the PA, a person must not be in control of a boat used to carry out pearling or hatchery activities (other than on a pearl farm) unless a Pearl Boat Master's Licence is held. A person must not dive while carrying out pearling or hatchery activities without a PDL.

Under the ARMA, there is the potential for licences to no longer be required to participate in commercial fishing as crew, but an authorisation would be needed to operate as the master of a commercial fishing operation. The master would be required to be present during the fishing activity and have direct oversight and control of the operation.

Removal of the requirement for crew to hold licences would simplify administrative processes, making it easier for industry to take on crew. It would also encourage a high level of professionalism within industry as masters would have greater responsibility for the "fit and proper" type credentials of those working as crew.

Only one person would be permitted to operate as a master on any fishing trip, regardless of the number of appropriately authorised persons who are engaged in the operation or are on board the boat.

Fish taken during a commercial fishing operation would only be permitted to be sold, consigned or otherwise disposed of by the master.

Where an aquatic resource is transitioned to an Aquatic Resource Management Strategy, in order for Annual Catch Entitlement (ACE) to be fished it would need to be held by an authorised master. The master would also be responsible for acquitting catch against the ACE.

For the pearling industry, divers would no longer be licensed by the Department. The current PML would be transitioned to the new licence type to apply to all masters.

The regulation of “on-water” activities under the ARMA is based around the person who holds and fishes the ACE, rather than the shareholder. The ACE holder will be responsible for offences committed during the operation. This greater level of responsibility means that the Department requires more certainty around the identity of masters and their “fit and proper” status. Therefore, it is proposed that a 100 point identify check would apply to the grant of authorisation for masters and that there would be a high level of scrutiny as to their fit and proper status.

As a means of simplifying licensing requirements, it is proposed that the master’s licence would be granted for a three year period.

Fish Receiver Licence (FRL)

Provisions under the FRMA relating to Fish Processing Licences and Permits are not automatically carried forward under the ARMA. This means there is an opportunity to re-evaluate the type of activities that need to be regulated and monitored beyond the point of landing.

Instead of focussing on processing fish as has historically been the case, the Department considers that instead, focussing on the receipt of fish is more relevant in the modern resource management context. The purpose of licensing and monitoring the receipt of fish is to support management controls on the level of take for commercial purposes and to assist in requiring that only legitimately taken fish are entering the commercial chain. To this end, the Department proposes to replace the current permit and licence system for fish processors with an FRL to be held by any person who receives fish caught under a Western Australian authorisation, with the following exceptions:

- the fish were received at a place for the purpose of retail sale or served as meals directly to the public;
- the fish were received from the holder of an FRL or from a person not required to hold an FRL;
- the fish received were not taken from Western Australian waters except where the fish is a “prescribed aquatic organism” and it is not for direct retail sale or restaurant use;
- the fish have been produced through aquaculture or pearling activities [except where the fish is a “prescribed aquatic organism”] and it is not for direct retail sale or restaurant use; and
- the fish are received for the sole purpose of transporting the fish on behalf of the owner (i.e. no processing, repacking etc.).

Specific authorisations would no longer be required for sea-based processing. Regulation of these activities would be through general regulations or management arrangements for individual fisheries/aquatic resources.

It is proposed that FRLs would be granted for a period of three years and would be subject to a 100 point identify check.

Fishing Boat Licences (FBLs) and Pearl Boat Licences (PBLs)

Currently, any person having the day to day control of any boat used for, or intended to be used for or in conjunction with commercial fishing must ensure that a current Fishing Boat Licence (FBL) is in force in respect of the boat. The boat is required to be identified by means of a Licensed Fishing Boat (LFB) number. Similarly, a Pearl Boat Licence (PBL) must be in force with respect to a boat used to carry out pearling or hatchery activities (other than on a pearl farm).

The purpose of these licensing regimes is:

- restrict access to boat-based commercial fishing activities not covered by specific management arrangements (i.e. so called “open access fisheries”);
- to enable Department compliance staff and the public to readily identify boats as commercial fishing/pearling boats.

The development of fishery specific management plans under the FRMA has largely made the need for FBLs redundant in these fisheries, provided that there remains a means for compliance staff to easily identify which boats are authorised for use in the relevant fishing activity. This trend will continue under the ARMA.

However, there remain some “open access fisheries” and fisheries where access is identified by means of a condition on an FBL. Existing legislation, including management plans and orders also make reference to FBLs and LFBs.

As such, it is proposed to retain FBLs in the short-term. It is proposed to transition PBLs as FBLs with a specific condition restricting their use to pearling and hatchery activities.

In the medium term, it is proposed to review the need to retain FBLs with a view to either replacing them with a simple boat registration system or amalgamation into other Government registration/licensing systems. It is anticipated that this review would occur by 2020. In the meantime, FBLs would be renewable for either a 12 month or extended (three year) period.

Carrier Boat Licences (CBLs)

A Carrier Boat Licence (CBL) must be held in respect of any boat that is used to transport fish for a commercial purpose taken using another boat. Currently, the only CBLs issued relate to the West Coast Rock Lobster Managed Fishery, where they are used to transport lobsters taken in Zone A (Abrolhos Islands) of the fishery to the mainland.

The ability to identify which boats are permitted to land catch from a given fishery, whether the boat was used to catch the fish or to transport it is integral to ascertaining the legitimacy of the source of the fish. This is particularly the case in quota managed fisheries such as the West Coast Rock Lobster Managed Fishery.

The Department therefore proposes to retain CBLs in the immediate term with a review of alternative registration/licensing systems to occur concurrently with that for FBLs. In the meantime, it is proposed that CBLs be renewable for either a 12 month or extended (three year) period.

Summary of Proposed Licensing Changes

Current Licence(s)	Proposed Licences
CFL, PML and PDL	Replace with a requirement for only the master of the boat to hold an authorisation.
Fish Processing Licences and Permits	Replace with a FRL (land based only). Sea-based processing to be covered in Regulations or arrangements for specific fisheries/resources.
FBL, PBL	Retain with review by 2020.
CBL	Retain with review by 2020.

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