



Christmas Island Applied Laws Amendment (Fish Resources Management) Ordinance 2022

Ordinance No. 1, 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 17 March 2022

David Hurley
Governor-General

By His Excellency's Command

Nola Marino
Assistant Minister for Regional Development and Territories
Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure,
Transport and Regional Development

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1 Name

This Ordinance is the *Christmas Island Applied Laws Amendment (Fish Resources Management) Ordinance 2022*.

2 Commencement

- (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Ordinance	The day after this Ordinance is registered.	23 March 2022

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

- (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

3 Authority

This Ordinance is made under the *Christmas Island Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.

Schedule 1—Amendments

Christmas Island Applied Laws Ordinance 1992

1 After section 3

Insert:

4 Rules—fish resources management

- (1) The Minister may, by legislative instrument, make rules:
 - (a) so as to amend Part 15A of Schedule 1 to this Ordinance; or
 - (b) to make application, saving or transitional provisions in relation to such amendments.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax.
- (3) Before making rules under this section, the Minister must consult with an advisory committee established under section 42 of the *Fish Resources Management Act 1994 (WA)* as it applies in the Territory.

2 After Part 14 of Schedule 1

Insert:

Part 15—Fish Resources Management Act 1994 (WA) (CI)

1 At the end of section 42

Add:

- (4) The Minister of the Commonwealth who administers this Act as in force in the Territory:
 - (a) must, as soon as practicable after the commencement of this subsection, establish an advisory committee under subsection (1); and
 - (b) despite subsection (3), ensure that at least one such committee is established at any time.

Part 15A—Fish Resources Management Regulations 1995 (WA) (CI)

1 Subregulation 3(1) (definition of *day trip*)

Repeal the definition, substitute:

day trip means a voyage undertaken by a person on a boat, except a voyage which has taken place over more than one day;

2 Subregulation 3(1) (definition of *one day*)

Repeal the definition, substitute:

one day means a period of 24 hours commencing at midnight;

3 Regulation 14

Repeal the regulation, substitute:

14 Finfish to be landed as whole fish, or as fish trunks or fillets

- (1) A person must not be in possession of a finfish on a boat or bring a finfish onto land unless it is:
- (a) a whole fish; or
 - (b) a fish trunk that has the skin and scales attached; or
 - (c) a fillet that:
 - (i) has the skin and scales attached; and
 - (ii) is packaged flat; and
 - (iii) is packaged so that it is easily accessible for identification; and
 - (iv) if the fish is frozen—can be measured and identified without being thawed.

Penalty: a fine of \$3,000 and the penalty provided in section 222 of the Act.

- (2) Subregulation (1) does not apply to:
- (a) finfish taken for a commercial purpose in accordance with an authorisation; or
 - (b) finfish on a boat if the finfish is:
 - (i) being consumed; or
 - (ii) prepared, or being prepared, for immediate consumption by persons on the boat.

4 Regulations 16D, 16DB, 16E, 16GA, 22 and 22AA

Repeal the regulations.

5 Subregulations 31(1) and (3)

Repeal the subregulations.

6 Subregulation 31(4)

Omit “or (3)”.

7 Paragraphs 32(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) in the case of a pot set or pulled from a licensed fishing boat—is marked by branding or stamping with legible characters not less than 60 mm high and not less than 10 mm wide showing the licensed fishing boat number of the boat.

8 Paragraph 36(1)(b)

Repeal the paragraph.

9 Subregulation 36(2B)

Repeal the subregulation.

10 Regulation 37

Repeal the regulation, substitute:

37 Offences against r.36, defences for

In any proceedings for an offence against regulation 36(1)(c), it is a defence for the person charged to prove that the person did not know and could not reasonably have known that 6 rock lobster pots had already been pulled by persons on board the boat in the relevant period.

11 Regulation 42

Repeal the regulation.

12 At the end of Division 8 of Part 4

Add:

64AB Fish at Christmas Island Airport

- (1) The following requirements apply to the possession of fish by a person in the area of Christmas Island Airport:
 - (a) the maximum quantity of fish that a person may possess is 10 kg;
 - (b) if the fish is finfish, it must:
 - (i) have the skin attached; and
 - (ii) be packaged flat;
 - (c) the fish must be packaged so that it is easily accessible for identification;
 - (d) if the fish is frozen, it must be able to be identified without being thawed.

- (2) A person in the area of Christmas Island Airport must not have any fish in the person's possession that does not meet the requirements of subregulation (1).

Penalty: a fine of \$3,000 and the penalty provided in section 222 of the Act.

- (3) It is a defence in proceedings for an offence against subregulation (2) for the person charged to prove that:
 - (a) the fish were taken for a commercial purpose in accordance with an authorisation; or
 - (b) the fish were kept, bred, hatched, cultured or harvested in accordance with an aquaculture licence; or
 - (c) the fish were taken under an authority to fish for scientific purposes issued under regulation 178.

- (4) In this regulation:

area of Christmas Island Airport means lot 598 on Deposited Plan 37939.

13 Subregulation 64E(3)

Repeal the subregulation (not including the penalty).

14 Subregulations 64F(1) and (2)

Repeal the subregulations, substitute:

- (1) A person must not fish by means of using a fishing net, unless the person uses only one net at any one time and the net is:
 - (a) a throw net that:
 - (i) has a length not exceeding 3 m measured from the centre retrieval line to the lead line; and
 - (ii) has a mesh of not more than 25 mm; or
 - (b) a hand-held landing net with a hoop or ring not exceeding 1 m in diameter.

15 At the end of Division 2 of Part 4A

Add:

64LA Spearfishing using breathing apparatus prohibited

A person must not fish with a spear or spear gun while using compressed air breathing apparatus.

Penalty: a fine of \$3,000 and the penalty provided in section 222 of the Act.

16 At the end of Division 4 of Part 4A

Add:

64U Spearfishing prohibited in area of Flying Fish Cove

- (1) A person must not fish with a spear gun, harpoon, Hawaiian sling or other pointed instrument in the waters of the area described in subregulation (2).

Penalty: a fine of \$3,000 and the penalty provided in section 222 of the Act.

- (2) The area is bounded by the line starting at the point described in item 1 of the following table and running sequentially as described in the table.

Area where spearfishing prohibited—Flying Fish Cove	
Item	Description
1	The northernmost point of the Port of Christmas Island jetty
2	Westerly along the geodesic towards the point 10°25.690'S, 105°39.895'E to its intersection by the high water line
3	Generally easterly along that high water line to its intersection by the eastern side of the jetty
4	Generally northerly along the eastern side of the jetty to the starting point

17 Subparagraph 64W(1)(b)(i)

Omit “in accordance with regulation 16D(1) Table items 1, 2 and 4”.

18 Paragraph 64W(1)(c)

Repeal the paragraph.

19 Regulation 64X

Repeal the regulation, substitute:

64X Counting pieces of fish for bag limits

For the purpose of determining the number of fish in relation to a bag limit:

- (a) 2 pieces of finfish are taken to be equivalent to one whole finfish; and
- (b) a piece of clam meat is taken to be equivalent to a whole clam.

20 Division 2 of Part 4B

Repeal the Division, substitute:

Division 2—Bag limits for Territory

64Y Territory bag limits

For the purposes of section 50 of the Act, the quantity of fish appearing under the heading “Species, or group of species, bag limit” in a Part of Schedule 3 is the bag limit in respect of fish of that species or group of species in the Territory.

21 Subregulation 117(1)

After “current fishing boat licence”, insert “granted under regulation 118 as it applies in the Territory”.

22 At the end of subregulation 121(1)

Add “granted under regulation 122 as it applies in the Territory”.

23 Division 2 of Part 11

Repeal the Division.

24 Regulation 156 (table)

After “64AA(2B),”, insert “64AB, 64LA, 64U,”.

25 Part 1 of Schedule 2

Omit:

Billfish (marlins, sailfish and spearfish).

26 Part 1 of Schedule 2

Omit “and Rays, other than sharks or rays that are totally protected fish”.

27 Part 2 of Schedule 2

Repeal the Part, substitute:

Part 2—Totally protected fish

Division 1—Certain reproducing crustaceans

Totally protected fish—reproducing crustaceans

Item	Description of totally protected fish
1	Female crab with eggs or spawn attached beneath its body
2	Female rock lobster with eggs or spawn attached beneath its body

Division 2—Miscellaneous**Totally protected fish—miscellaneous**

Item	Description of totally protected fish
1	Clams
2	Cod, Potato
3	Cod, White Banded
4	Coral and Live Rock
5	Coral Trout
6	Groper, Queensland
7	Parrotfish, Humphead
8	Rays
9	Wrasse, Humphead Maori

28 Part 3 of Schedule 2

Repeal the Part, substitute:

Part 3—Recreationally protected fish

Note: This Part is reserved for future use.

29 Schedule 3

Repeal the Schedule, substitute:

Schedule 3—Bag limits

Note: See regulation 64Y.

Part 1—Pelagic species**Bag limits for pelagic species**

Item	Fish	Species, or group of species, bag limit
1	Barracuda	4
2	Billfish and Swordfish	4
3	Dolphinfish (Mahi Mahi)	4
4	Tuna (all species except Dogtooth Tuna)	4
5	Tuna, Dogtooth	1
6	Wahoo	4
7	All species in items 1 to 6, combined	4

Part 2—Demersal species

Bag limits for demersal species

Item	Fish	Species, or group of species, bag limit
1	All of the following: (a) Cod (Groupers) (except totally protected species); (b) Emperors; (c) Sepat, Red and Black; (d) Snappers; (e) Trevally	15

Part 3—Crustaceans and molluscs

Bag limits for crustaceans and molluscs

Item	Fish	Species, or group of species, bag limit
1	Rock Lobster	4

30 Schedule 4

Repeal the Schedule, substitute:

Schedule 4—Categories of Fish

Note: See regulation 180.

Part 1—Category 1 fish

Category 1 fish

Item	Type of fish
1	Billfish
2	Bonefish
3	Clams
4	Cod, Potato
5	Cod, White Banded
6	Coral
7	Coral Trout
8	Coronation Trout
9	Crab, Mud
10	Dolphinfish (Mahi Mahi)
11	Groper, Queensland
12	Live Rock
13	Parrotfish, Humphead
14	Rays
15	Rock Lobster
16	Sharks
17	Swordfish

Category 1 fish

Item	Type of fish
18	Tuna (all species)
19	Wahoo
20	Wrasse, Humphead Maori

Part 2—Category 2 fish**Category 2 fish**

Item	Type of fish
1	Cod (Groupers) (except species listed as category 1 fish)
2	Emperors
3	Parrotfish (except Humphead Parrotfish)
4	Sepat, Red and Black
5	Snappers
6	Trevally

Part 3—Category 3 fish**Category 3 fish**

Item	Type of fish
1	Milkfish
2	Mullet, Diamond Scale
3	Mullet, Sea
4	Silveries

Part 4—Category 4 fish**Category 4 fish**

Item	Type of fish
1	Any species of fish not specified in this Schedule to be category 1 fish, category 2 fish or category 3 fish

31 Schedule 7

Repeal the Schedule, substitute:

Schedule 7—List of common and scientific names

Note: See subregulation 3(2).

Common and scientific names of fish

Item	Common name	Scientific name
1	Barracuda	<i>Sphyraena</i> spp.
2	Billfish	Family Istiophoridae
3	Bonfish	<i>Albula</i> spp.

Common and scientific names of fish		
Item	Common name	Scientific name
4	Clam, Giant	<i>Tridacna gigas</i>
5	Clams	<i>Tridacna</i> spp.
6	Cod (Groupers)	Family Epinephelidae
7	Cod, Potato	<i>Epinephelus tukula</i>
8	Cod, White Banded	<i>Anyperodon leucogrammicus</i>
9	Coral	Class Anthozoa and Class Hydrozoa
10	Coral Trout	<i>Plectropomus</i> spp.
11	Coronation Trout	<i>Variola</i> spp.
12	Crab, Mud	<i>Scylla</i> spp.
13	Dolphinfish (Mahi Mahi)	<i>Coryphaena</i> spp.
14	Emperors	Family Lethrinidae
15	Groper, Queensland	<i>Epinephelus lanceolatus</i>
16	Live Rock	Family Corallinaceae, Class Polychaeta, Class Crinoidea, Class Ascidiacea, Class Ophiuroidea, Phylum Bryozoa and Phylum Porifera and dead fish of Class Anthozoa and Class Hydrozoa
17	Milkfish	<i>Chanos chanos</i>
18	Mullet, Diamond Scale	<i>Liza vaigiensis</i>
19	Mullet, Sea	<i>Mugil cephalus</i>
20	Parrotfish	Subfamily Scarinae
21	Parrotfish, Humphead	<i>Bolbometopon muricatum</i>
22	Rays	Superorder Batoidea
23	Rock Lobster	<i>Panulirus</i> spp.
24	Sepat, Red and Black	Families Berycidae and Bramidae
25	Sharks	Orders Squatiniformes, Pristiophoriformes, Squaliformes, Hexanchiformes, Carcharhiniformes, Lamniformes, Orectolobiformes and Heterodontiformes
26	Shark, Whale	<i>Rhincodon typus</i>
27	Silveries	<i>Gerres</i> spp.
28	Snappers	Family Lutjanidae
29	Swordfish	Family Xiphiidae
30	Trevally	Family Carangidae
31	Tuna, Albacore	<i>Thunnus alalunga</i>
32	Tuna, Bigeye	<i>Thunnus obesus</i>
33	Tuna, Dogtooth	<i>Gymnosarda unicolor</i>
34	Tuna, Longtail	<i>Thunnus tonggol</i>
35	Tuna, Skipjack	<i>Katsuwonus pelamis</i>
36	Tuna, Southern Bluefin	<i>Thunnus maccoyii</i>
37	Tuna, Yellowfin	<i>Thunnus albacares</i>
38	Wahoo	<i>Acanthocybium solandri</i>
39	Wrasse, Humphead Maori	<i>Cheilinus undulatus</i>

32 Schedule 9

Repeal the Schedule, substitute:

Schedule 9—Determining the value of fish

Note: See regulation 157.

Value of fish species			
Item	Species of fish	Value per unit of weight (\$/kg)	Value per fish (\$)
1	Barracuda	2.00	10.00
2	Billfish	2.00	100.00
3	Bonefish	8.00	24.00
4	Clam, Giant	10.00	100.00
5	Clams (except Giant Clam) (shucked)	60.00	5.00
6	Clams (except Giant Clam) (whole)	25.00	5.00
7	Cod (Groupers) (except species listed separately)	9.50	38.00
8	Cod, Potato	10.00	100.00
9	Cod, White Banded	10.00	100.00
10	Coral and Live Rock	80.00	-
11	Coral Trout	10.00	100.00
12	Coronation Trout	8.00	24.00
13	Crab, Mud	25.00	14.00
14	Dolphinfish (Mahi Mahi)	2.00	4.00
15	Emperors	8.00	24.00
16	Groper, Queensland	10.00	100.00
17	Milkfish	4.50	3.00
18	Mullet, Diamond Scale	4.50	3.00
19	Mullet, Sea	4.50	3.00
20	Parrotfish (except Humphead Parrotfish)	6.00	12.00
21	Parrotfish, Humphead	25.00	100.00
22	Rock Lobster	30.00	15.00
23	Sepat, Red and Black	8.00	24.00
24	Sharks and rays (except Whale Shark)	6.00	90.00
25	Shark, Whale	10.00	500.00
26	Silveries	4.50	3.00
27	Snappers	8.00	24.00
28	Swordfish	2.00	100.00
29	Trevally	3.50	8.00
30	Tuna, Dogtooth	5.00	25.00
31	Tuna (except Dogtooth Tuna)	2.00	20.00
32	Wahoo	7.00	28.00
33	Wrasse, Humphead Maori	25.00	100.00
34	All fish not otherwise listed in this Schedule	1.00	1.00

33 Schedule 12 (table headed “Part 2—Regulations”, item 4)

After “64E,”, insert “64LA,”.

34 Schedule 12 (table headed “Part 2—Regulations”, item 4)

After “64QA,”, insert “64U,”.

35 At the end of Schedule 15

Add:

5 Zone 5: Christmas Island

The Territory

3 Schedule 4

Omit “*Fisheries Act 1905* (W.A.)(C.I.)”.