

Fish Resources Management Act 1994

Section 250

APPLICATION FOR THE RELEASE OF INFORMATION

The form is to be used to apply to the Chief Executive Officer of the Department of Primary Industries and Regional Development (DPIRD) for catch history or entitlement use information relating to a specific authorisation

Information Relating to Applications

Application Fee

There is no fee associated with this application at this time.

Confidentiality requirements

Section 250 of the *Fish Resources Management Act 1994* (the Act) imposes a broad confidentiality requirement on the Department. Consequently, all catch and entitlement use information received by the Department is considered to be strictly confidential. Notwithstanding this, it is acknowledged that from time to time there may be a need for non-Department staff to access catch or entitlement use information relating to a specific authorisation. The purpose of this form and associated procedures is to provide a clear process for non-Department staff to apply for access to otherwise confidential catch or entitlement use information.

There are limited and specific exceptions to confidentiality set out at s.250(3) of the Act (see below). In particular, the Department is required to have the consent of the person, or each of the persons, required to keep, submit or lodge the information, or who voluntarily provided the information before it releases information relating to an authorisation. Applicants completing **Part B** of this form therefore need to obtain the consent (in a statutory declaration) of each of the people to whom the requested information relates before the Department will process the application and/or release the requested information, unless the applicant has been the relevant authorisation holder for the whole period requested. As a general rule, for catch or entitlement use information, the "person or persons required to keep, submit or lodge the information, or who voluntarily provided the information" are those people listed on the relevant fishing returns that have been submitted to the Department in accordance with Regulation 64 of the *Fish Resources Management Regulations 1995* (the Regulations) or any other subsidiary legislation, and relevant authorisation holders.

It is appropriate that the current holder of an authorisation should have some access to catch history or entitlement use information held by the Department relating to the authorisation, even if that person is not listed on returns submitted to the Department. In support of this view, Section 250(3)(d) of the *Fish Resources Management Act 1994* (the Act) enables Department staff to release catch or entitlement use information regarding an authorisation to the authorisation holder. **Part C** of this form is to be used by authorisation holders when applying for catch or entitlement use information. When completing this section, consent is required from persons who held authorisations during any previous period in respect of which information is sought (or, if those persons are deceased, their personal representatives).

Instructions for completing form E-1

Part A – All applicants must complete Part A

1. Read and understand the information and instructions provided, then tick the declaration box.
2. Define the relevant authorisation. Use any letter prefixes and all numbers. Strictly one authorisation per application, except in instances where fishery entitlement is conferred against all authorisations allocated to the authorised boat.
3. Specify the nature of the requested information as either catch (including catch history) or entitlement use information by completing the relevant column. All fields within the relevant column must be completed. Applications for entitlement use information that are not submitted with the required evidence will be returned to the applicant.

Part B – All applicants must complete Part B

4. All applicants should complete this section.
5. Unless exempted, applicants **must** provide statutory declarations consenting to the release of the relevant information from every person to whom the information relates. This typically will include (but is not necessarily limited to) every person listed on catch returns regarding the authorisation that were submitted to the Department during the relevant period, and the authorisation holder/s. Applicants who complete this section but do not provide the necessary consent/s will not be provided with the requested information.
6. An applicant does not need to provide statutory declarations if the applicant has been the relevant authorisation holder for the whole period requested.

Part C – Declaration and Execution

7. Check all details on the application. By executing the application, you are declaring that the details are true and correct.
8. Execute the application by completing the relevant parts for individuals or organisations, including a company seal if relevant. Evidence of attorney under power must be provided if relevant.

Attention

Fisheries legislation changes from time to time. To assist fishers, aquaculturists and members of the public to access fisheries legislation, the Chief Executive Officer has arranged for up-to-date fisheries legislation to be made available on the internet. Fisheries legislation may be viewed by visiting the Fisheries Legislation page on the WA Government website (<https://www.wa.gov.au/government/document-collections/fisheries-legislation>). The Chief Executive Officer recommends that authorisation holders and persons acting on their behalf (e.g. employees), regularly access this legislation service and make themselves aware of the fisheries legislation that relates to their activities.

250. Confidential information, divulging

- (1) In this section – “**confidential information**” means information contained in any of the following –
- (a) a record that is required to be kept under this Act;
 - (b) a return that has been submitted or lodged as required under this Act;
 - (c) a record that has been voluntarily provided to the Department for the purposes of research;
 - (d) a MEMP that has been lodged as required under this Act.

(2) Except as provided in this section, a person who directly or indirectly divulges any confidential information obtained by reason of any duty or power that person has, or at any time had, in the administration of this Act commits an offence.

Penalty: \$10,000.

(3) Subsection (2) does not apply to the divulging of information –

(a) in the course of the performance of any duty or the exercise of any power under this Act; or

(b) as required or allowed under this Act; or

(c) for the purposes of the investigation of any suspected offence against this Act or the conduct of proceedings against any person for an offence against this Act; or

(d) that relates to the person or persons required to keep, submit or lodge the information, or who voluntarily provided the information, with the consent of that person or each of them.

(4A) Subsection (2) does not apply to the divulging of information in aggregated form relating to fishing carried out under the authorisations in respect of a fishery, even though it could reasonably be expected to lead to the identification of a participant in the fishery because of the small number of participants.

(4B) Subsection (2) does not apply to the divulging of information relating to fishing carried out under an authorisation to its holder –

(a) in respect of the period during which the holder has held the authorisation (the **current period**); or

(b) in respect of any period before the current period (a **previous period**) with the consent of –
i. the person who held the authorisation during that previous period; or
ii. if that person has since died – the deceased's personal representative.

(4C) Subsection (2) does not apply to the divulging of information relating to fishing carried out under an authorisation to the master of a boat who is acting on behalf of the holder of the authorisation.

(4D) Subsection (2) does not apply to the divulging of information for law enforcement purposes to a department or other agency of the State with the approval of the Minister.

(4E) Subsection (2) does not apply to the divulging of information for law enforcement purposes to a department or other agency of the Commonwealth, another State or a Territory (an **interstate jurisdiction**) in accordance with –

(a) an agreement between the Minister and a Minister of the interstate jurisdiction; and

(b) the requirements (if any) under the regulations.

(4) Subsection (2) does not apply to the divulging of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

(5) A person who has any confidential information obtained by reason of any duty or power that person has, or at any time had in the administration of this Act is, despite any law to the contrary, not to be required by subpoena or otherwise to produce or divulge that information to any court or tribunal.

(6) This section has effect despite any provision of the *Freedom of Information Act 1992*.

Fish Resources Management Act 1994

Section 250

Application for the release of information (Form E-1)

Chief Executive Officer of the Department of Primary Industries and Regional Development (DPIRD): I hereby request the Department provide information associated with the authorisation identified at 2 of this form of the nature identified at 3 of this form. I acknowledge that any information provided by the Department will only be a summary of the records that have been received and are held by the Department at the date/time of signing by the authorised Department staff member. In releasing these records, the Department is not acknowledging either the accuracy or completeness of the returns submitted to the Department.

**PART A – AUTHORISATION DETAILS AND NATURE OF REQUESTED
INFORMATION:**

1. Information and Instructions declaration

I **declare** that I have read and understand the 'Information Relating to Applications' and the 'Instructions for Completing a Form E-1' (cross to declare).

2. Authorisation - one authorisation only, unless entitlement is conferred against multiple. For catch history, we invite requestors to provide a Licensed Fishing Boat (LFB) Number:

Authorisation number (include prefix):

3. Nature of requested information (complete one column only):

Entitlement use information request:

Note: Applications for entitlement use information **must** be accompanied by evidence that the applicant has made a reasonable attempt to calculate the relevant entitlement use of the authorisation for the relevant period. Evidence will typically include copies of timesheets for VMS monitored fisheries or CDR summaries.

Entitlement use information for the period:

From (date):

To (date):

Area/zone/species:

If blank all areas/zones and species will be provided.

Evidence attached? (cross to confirm)

Summary of Evidence (include units):

The above is calculated to CDR # or date:

Comments:

Catch information request:

Note: Applications for catch history information **do not** need to be accompanied by evidence that the applicant has made a reasonable attempt to calculate the catch for the relevant period.

Catch history for the period:

From (date):

To (date):

Comments:

PART B – REQUESTOR DETAILS

4. Personal Details and Reason for information request:

Name(s):

Company Name or Organisation:

Business Address:

Postal Address:

Telephone:

Fax:

Email:

ABN:

ACN:

Reason for requesting the information:

5. Consent of the person, or each of the persons, to whom information relates:

I declare that the attached Statutory Declaration/s, which consent to the release of the relevant catch or entitlement use information, include every person to whom the requested information relates. (tick to declare)

OR

I declare that, for the whole of the period requested, I have been the authorisation holder of the authorisation/s requested. (tick to declare)

PART C – DECLARATION AND EXECUTION OF APPLICATION

6. Declaration

By executing this application, I declare that the statements made in this Application are true and correct.

7. Execution of Application Form

Individuals

(signature) (print name) (date)

(signature) (print name) (date)

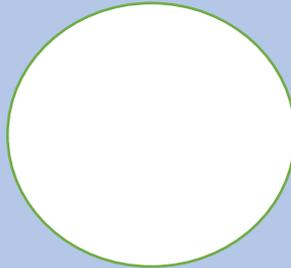
(signature) (print name) (date)

(signature) (print name) (date)

Corporation

The Common Seal of the authorisation holder is hereunto affixed in accordance with the corporation's Constitution:

Affix seal here →



Director:

(signature) (print name) (date)

Director/Secretary:

(signature) (print name) (date)

Declaration where sole director/secretary (if applicable):

I declare that I am the sole director and sole company secretary of

(print company name) (signature) (date)

Attorney

Attorney under Power:

(signature) (print name) (date)