

Marine Spaces (Foreign Fishing Vessels) Regulations

FIJI

SECTION 20-MARINE SPACES (FOREIGN FISHING VESSELS) REGULATIONS

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Legal Notice No. 137 of 1979

PART I-PRELIMINARY

Short title

1. These Regulations may be cited as the Marine Spaces (Foreign Fishing Vessels) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires-

"approved fishing plan" means a fishing plan for the time being approved by the Minister under regulation 5;

"call sign" means International Radio Call Sign;
"Country of registration" means the state in which a vessel is recognised in international law as being registered;
"equipment" includes instruments and fishing gear;
"Fisheries Officer" means any officer specified in section 17 of the Act;
"fishing log" means a fishing log required to be maintained on a licensed vessel under regulation 25;
"inspection port", in relation to any particular foreign fishing vessel, means any Fiji port that the Minister has, by notification to the owner, licensee, or master of the craft, or the National Fisheries Representative of the vessel, designated as an inspection port for the purposes of these Regulations;
"licensed vessel" means a licensed foreign fishing vessel;
"National Fisheries Representative", in relation to any foreign fishing vessel, means the National Fisheries Representative approved for that vessel under regulation 3;
"Permanent Secretary" means the Permanent Secretary for Primary Industries;
"ship's log" means a ship's log required to be maintained on a licensed vessel under regulation 25;
"vessel" includes all equipment on board or used by a vessel.

PART II-ADMINISTRATION

Approval of National Fisheries Representative

3. Where, under section 13(3) of the Act, the Minister has for the time being made an apportionment of the allowable catch for foreign fishing vessels in respect of a fishery in the exclusive economic zone-

- (a) the Government of any country to which the apportionment applies shall nominate for the approval of the Minister responsible for Foreign Affairs a specified individual to be the National Fisheries Representative, for the purpose of these Regulations, for the fishing vessels of that country; and
(b) the Minister responsible for Foreign Affairs may approve accordingly the individual so nominated.

Communications to be made through National Fisheries Representative

4. Unless in any particular case the Minister or Permanent Secretary otherwise authorises, every notice, other document, or communication that is to be served on or given to the Minister or Permanent Secretary in respect of any foreign fishing vessel or of any licensee, owner, master, or crew member of any foreign fishing vessel, shall be served, or given, through the National Fisheries Representative to the Permanent Secretary at Suva.

Fishing plan

5.-(1) For the purposes of these Regulations, the National Fisheries Representative of any country in respect of which the Minister has made an apportionment of the allowable

catch for foreign fishing vessels under section 13(3) of the Act in respect of any fishery in the exclusive economic zone may from time to time submit to the Minister a fishing plan which complies with this regulation.

(2) Every fishing plan shall be in the English language in the form of a memorandum and shall outline the proposals for taking from the fishery apportionment that has been made in respect of that country, including the following information:-

(a) the areas in the exclusive economic zone within which fishing will be carried out by fishing vessels of that country;

(b) the number of fishing vessels which will be engaged in fishing;

(c) the estimated times of arrival in and departure from the exclusive economic zone of each fishing vessel;

(d) the proposed duration of the fishing plan;

(e) an outline of the likely calls into Fiji ports to be made by the fishing vessels of that country during the duration of the fishing plan;

(f) an outline of all proposed trans-shipment of fish from the fishing vessels to other vessels of that country in the exclusive economic zone during the period of the fishing plan;

(g) an outline of all proposed landings of fish in Fiji from the fishing vessels of that country during the duration of the fishing plan;

(h) an outline of all other proposed operations in support of the fishing vessels of that country in the exclusive economic zone during the duration of the fishing plan.

(3) The Minister may from time to time approve any fishing plan submitted to him under this regulation, or any proposal to vary that plan.

(4) In approving a fishing plan, or proposal to vary a fishing plan, the Minister may specify the time for which the approval shall remain in force.

(5) The Minister may from time to time vary or suspend any approved fishing plan, or cancel his approval of any fishing plan.

(6) The approval of a fishing plan shall not be construed to limit any power of the Minister relating to the licensing of any foreign fishing vessel.

PART III-LICENSING OF FOREIGN FISHING VESSELS

Application for licence. Form 1

6. Every application for a licence in respect of a foreign fishing vessel shall be made to the Minister in the form specified in Form 1 in the Schedule or in such other form as the Minister may in any particular case or class of cases authorise.

Additional information

7. Before determining any application for a licence, the Minister may require to be submitted to him in respect of the application such further information as is reasonably necessary or expedient in order to exercise his powers under section **14** of the Act.

Minister may require application to be in pursuance of fishing plan

8. Without limiting the powers of the Minister under the Act, he may refuse to consider or grant an application for a licence-

(a) if there is no approved fishing plan for the country of the foreign fishing vessel in respect of which the application is made; or

(b) if the application is made otherwise than in pursuance of the fishing plan for that country.

Issue of licence. Form 2

9. On granting a licence, the Minister may issue a licence in the form specified in Form 2 in the Schedule to the owner of the foreign fishing vessel in respect of which the licence is granted.

Licence fees for foreign fishing vessels

10.-(1) Every person to whom a licence has been granted under section **14** of the Act shall pay a fee of \$50 plus 5% of the landed market value of the catch taken in the exclusive economic zone by the vessel to which the licence refers.

(2) The Minister may require a proportion of the catch taken by the vessel to which the licence refers, to be landed for processing at a port in Fiji.

(3) The Minister may, in such circumstances, and subject to such conditions, as he may consider appropriate, exempt any person from all or any of the provisions of this regulation.

Place of payment

11. All fees payable under these Regulations shall be paid to the Permanent Secretary at Suva.

Endorsement of variation of licence

12.-(1) Where, under section **15**(2) of the Act, the Minister has varied the licence of any foreign fishing vessel, and the Permanent Secretary has required the licensee or the master of the vessel to deliver the licence to the Permanent Secretary at Suva for endorsement accordingly, that owner or master shall do so within 72 hours after the vessel enters a Fiji port.

(2) After a licence has been endorsed under this regulation, it shall be returned to the licensee or master of the licensed vessel.

Suspension of licence

13.-(1) Where, under section **15** of the Act, the Minister suspends any licence, every licensee to whom the suspension applies shall, within 72 hours after receiving notice of the suspension, surrender his licence to the Permanent Secretary.

(2) On the expiry of the period of any suspension of a licence, it shall be returned to the licensee.

Cancellation of licence

14. Where, under section **15** of the Act, the Minister cancels any licence, every licensee to whom the cancellation applies shall, within 72 hours after receiving notice of the cancellation, surrender his licence to Me Permanent Secretary.

Production of licence

15. Every master of a licensed vessel in Fiji fisheries waters shall on the demand of a Fisheries Officer, produce to that Officer for inspection the licence issued in respect of the vessel.

Licence to be kept on the vessel

16. Except as provided in regulations 12, 13, 14 or 15, every licence shall be maintained in good condition on the foreign fishing vessel in respect of which it is issued in a place where it can be readily inspected by a Fisheries Officer and is safe from the elements.

Duplicate licence

17. The Minister may from time to time, where-

(a) he is satisfied that a licence has been accidentally lost., destroyed or so damaged as to be illegible; or

(b) for any other reason he considers it desirable to do so,

issue a duplicate licence to the licensee.

**PART IV-CONTROL OF LICENSED VESSELS IN THE EXCLUSIVE
ECONOMIC ZONE**

Notice of intention to enter zone

18.-(1) No foreign fishing vessel to which this regulation applies shall enter the exclusive economic zone from the high seas unless, not less than 24 hours before its entry, the Permanent Secretary has been notified of the following:-

- (a) the name, call sign and country of registration of the vessel;
- (b) the latitude and longitude of the point at which the vessel will enter exclusive economic zone;
- (c) the port to which the craft will proceed for inspection under regulation 19;
- (d) the quantity of each species of fish on board the vessel.

(2) This regulation applies to-

[sic] any foreign fishing vessel entering the exclusive economic zone in furtherance of or for the purpose of making an application for a licence;

(b) any licensed vessel.

Compulsory port inspection on entry and before leaving the zone

19.-(1) Every vessel to which regulation 18 applies shall, on entering or prior to leaving the exclusive economic zone from and to the high seas respectively, proceed directly and immediately to an inspection port.

(2) No licensed vessel shall be used for fishing in the exclusive economic zone unless a clearance to fish in the zone is given by a Fisheries Officer.

(3) Every licensed vessel in respect of which clearance to leave the exclusive economic zone has been given by a fisheries officer shall, on leaving the inspection port proceed expeditiously to the high seas.

Exemption from port inspection

20. The Permanent Secretary may exempt a licensed vessel from compliance with any provision of regulation 19 on such conditions as he may specify.

Port calls following clearance to

21. Where a licensed vessel wishes to enter a Fiji port after it has been given clearance under regulation 19 to fish in the exclusive economic zone but before it has had clearance to leave that zone, the Permanent Secretary shall be notified not less than 24 hours before its intended entry of the following:-

- (a) the name, call sign, and country of registration of the vessel;
- (b) the intended port of entry;
- (c) the purpose of the intended entry.

Flags

22. Every licensed vessel shall, at all time while it is in Fiji fisheries waters, fly the flag of its country of registration.

Markings

23. Every licensed vessel shall, at all times when it is in Fiji fisheries water, display its call sign in block Roman alphabet letters not less than one metre in height, in white markings on a black background or in black markings on a white background, on the port and the starboard side of the hull in such a manner that the markings are clearly visible and legible from the air and at sea level.

Lighting

24. Every licensed vessel shall use for fishing in the exclusive economic zone display lights and shapes in compliance with the requirements of the International Regulations for Preventing Collisions at Sea for the vessel and the activity in which it is engaged.

Records

25.-(1) Every master of a licensed vessel shall maintain in the English language on board the vessel, at all times while the vessel is in Fiji fisheries waters, a ship's log and shall enter in that log a record of the date, time, and nature of every instruction, direction, or requirement communicated to the master by the Minister, the Permanent Secretary or a Fisheries Officer while the vessel is in Fiji fisheries waters.

(2) Every master of a licensed vessel shall maintain in the English language on board the craft, at all times while the vessel is in Fiji fisheries waters, a separate fishing log in which he shall enter daily, whenever the vessel is in the exclusive economic zone, the following information relating to the activities of the vessel during the day:-

- (a) the fishing effort of the vessel;
- (b) the method of fishing used;
- (c) the areas in which fishing was undertaken;
- (d) the quantity of each species of fish taken; and
- (e) such other information as the Permanent Secretary may reasonably require in order to ascertain the fishing activities of that vessel in the exclusive economic zone.

(3) Every fishing log shall be maintained in a form supplied or approved by the Permanent Secretary.

(4) Every master of a licensed vessel shall, within 72 hours after each occasion on which the vessel enters a Fiji port, forward the completed log to the Permanent Secretary.

Interpreters

26.-(1) Every licensed vessel shall, at all times while it is in Fiji fisheries waters have on board a person who is able to converse effectively in English and to act as an interpreter from English into the language of the master of the vessel and from that other language into English.

(2) The Permanent Secretary may in any particular case exempt a licensed vessel from compliance with paragraph (1) on such conditions as he may specify.

Methods of communication

27.-(1) Every licensed vessel in Fiji fisheries waters shall carry the latest edition of the "International Code of Signals" published by the Inter-Governmental Maritime Consultative Organisation Marine Safety Committee.

(2) Every person who is a master or officer of a licensed vessel, shall have a working knowledge of that code.

(3) In every communication by radio, flag or light between any licensed vessel in Fiji fisheries waters and any Fiji authority, the signals specified in the said code shall be used.

Reporting

28.-(1) Every licensed vessel shall, so long as it is in Fiji fisheries waters, report to the Permanent Secretary daily the following information:-

- (a) the name, call sign, and country of registration of the craft;
- (b) its position at that specified time.

(2) Every licensed vessel shall, so long as it is in Fiji fisheries waters, report weekly the quantity of each species of fish taken by the vessel in the exclusive economic zone during the previous seven day period and the areas in which such fish were taken.

Notification of completion of quota

29. Every National Fisheries Representative shall notify the Permanent Secretary forthwith of the completion of the taking of so much of the allowable catch in the exclusive economic zone as has been apportioned to the fishing vessels of his country.

Stowage of gear

30.-(1) All fishing equipment on board a foreign fishing vessel in Fiji fisheries waters shall be stowed in such a manner as not to be readily available for use for fishing.

(2) Paragraph (1) shall not apply to a licensed vessel that is in the exclusive economic zone in area in which it may be used for fishing pursuant to its licence.

Trans-shipment of catch

31. No fish shall be trans-shipped from a foreign fishing vessel in Fiji fisheries waters to any other vessel, except at a place and time authorised for the purpose by the Permanent Secretary, and in accordance with such conditions as he may

Interference with fisheries

32. No living organism, article or substance, other than fishing equipment or bait, that is likely-

- (a) to cause harm to any fish or marine mammal; or
- (b) to obstruct fishing equipment, or
- (c) to become a hazard to navigation,

shall be put or released into the sea of the exclusive economic zone from a foreign fishing vessel.

PART V-ENFORCEMENT

General powers of Fisheries Officers

33. Any Fisheries Officer may at any time in Fiji fisheries waters, with such aid as he considers to be necessary for the purpose-

- (a) require the master or any other crew member of any licensed vessel to inform him of the name, call sign, and country of registration of the vessel, and the name of the master or any other crew member; and
- (b) require the master of the vessel to produce the ship's log or fishing log to him for inspection and for the making of a copy or transcript for retention by the Fisheries Officer; and
- (c) make an entry, being an entry dated and signed by him. in the ship's log; and
- (d) subject to any other applicable Fiji law, give to the master such directions as he thinks fit as to the stowing and sealing, or the landing on the shore, of any equipment on board the vessel that contravenes or is being used in contravention of any conditions of licence issued in respect of the vessel or any Fiji law that is applicable to the vessel; and
- (e) give such directions as are necessary or reasonably expedient to the master or any other crew member of the vessel for any purpose specified in these Regulations or to provide for the compliance by the vessel or the master or any other crew member with the conditions of the licence or any Fiji law applicable to the vessel.

Facilities for observers and Fisheries Officers

34.-(1) Every master of a licensed vessel in Fiji fisheries waters-

(a) whenever required so to do by the Permanent Secretary, shall allow any person authorised by the Permanent Secretary for the purpose to board and remain on the vessel as an observer while it is in Fiji fisheries waters; and

(b) whenever required so to do by the Permanent Secretary or a Fisheries Officer, shall allow any Fisheries Officer to board and remain on the vessel while it is in Fiji fisheries waters.

(2) Every master of a licensed vessel in Fiji fisheries waters shall, whenever required so to do by the Permanent Secretary or a Fisheries Officer, proceed to any Fiji port or to any other place in Fiji fisheries waters for the purpose of embarking or disembarking any observer or Fisheries Officer.

(3) At all times while any observer or Fisheries Officer is on board a licensed vessel pursuant to this regulation, the master-

(a) shall allow the observer or Fisheries Officer full access to all equipment and records, and documents, and to all fish on board the vessel; and

(b) shall permit the observer or Fisheries Officer to make such tests, observations, and records, and take and remove such samples as he may require in order to determine the nature and extent of the activities of the vessel in Fiji fisheries waters;

(c) shall provide for the observer or Fisheries Officer all reasonable assistance to enable him to do any act specified in sub-paragraphs (a) and (b); and

(d) shall provide food and accommodation, at least equivalent to the standard of that provided for the officers of the vessel, for the observer or Fisheries Officer.

(4) No compensation shall be payable by the Crown to the licensee or master of a foreign fishing vessel for the costs of complying with this regulation.

Safety of Fiji officials

35. Every person who is the master or a crew member of a foreign fishing vessel shall take all reasonable precautions for the safety of every Fisheries Officer or observer who is boarding, on board, or leaving the vessel in Fiji fisheries waters.

Compliance with instructions

36. Every person who is the master or a crew member of a foreign fishing vessel in Fiji fisheries waters shall immediately comply with every instruction, direction, or requirement that is given or made to him by a Fisheries Officer pursuant to these Regulations.

PART VI-MISCELLANEOUS

Regulations to be read subject to conditions of licence

37. In relation to a licensed vessel, the provisions of these Regulations shall be read subject to any conditions of a licence issued in respect of that vessel.

Offences

38. Any person who contravenes or fails to comply with any of the provisions of these Regulations shall be guilty of an offence and, where no other penalty has been prescribed, shall be liable on conviction to a fine not exceeding \$400.

Service of Communication

39.-(1) Without limiting any other method of service, delivery or communication any notice or other document or communication that is to be or may be served or given by the Minister or by the Permanent Secretary or by a Fisheries Officer to any person under the Act or under these Regulations in respect of any foreign fishing craft may be served or given by being delivered or communicated, as the case requires, to the National Fisheries Representative for that vessel and in such a case it shall be deemed to have been served or given at the time when it is so delivered or communicated to the National Fisheries Representative.

(2) Any notice or other document or communication referred to in paragraph (1) may be served or given by being sent in a registered letter addressed to a National Fisheries Representative or (in the case of any other method of delivery, or communication, to any other person on or to whom it is to be served, delivered or communicated) in which case it shall be deemed to have been duly received at the time when it would have been received in the ordinary course of post.

SCHEDULE

(Regulations 6 and 9)

FORM 1

APPLICATION FOR A LICENCE TO FISH IN THE EXCLUSIVE ECONOMIC ZONE IN FIJI

This application refers only to pole and line, purse seine and longline fishing of highly migratory species, as defined in Appendix I, within those described in section 6 of the Fiji Marine Spaces Act, 1997 (Appendix II) for the period from19.....to 31 December 19.....The Licence may authorise fishing generally or may confer limited authority to fish as specified in section 12(3)(a-r) of the above Act (Appendix III).

1. NAME OF VESSEL:

2. IDENTIFICATION MARKS:

3. PORT OF REGISTRATION:

4. OWNER(S):

5. OWNER'S REGISTERED OFFICE AND ADDRESS:

6. VESSEL SIZE:

LENGTH:

BREADTH:

DRAFT:

7. GROSS TONNAGE: tonnes

8. FISH HOLD TONNAGE: tonnes

9. NUMBER AND NATIONALITY OF CREW

10. PREVIOUS FISHING HISTORY IN THE AREA WHICH IS NOW INCLUDED IN THE FIJI EXCLUSIVE ECONOMIC ZONE:

YEAR							
TOTAL CATCH							

11. AREA WITHIN WHICH FISHING IS REQUESTED:

12. SPECIFIC PERIOD FOR WHICH FISHING IS REQUESTED:

13. SPECIFIC FISHING METHODS TO BE USED:

POLE AND LINE

LONGLINING

PURSE SEINING

NUMBER OF POLES

NUMBER OF HOOKS

LENGTH AND DEPTH OF NET (m)

14. INTENDED DISPOSAL OF CATCH:

a. AT A PORT WITHIN FIJI

i. FOR PROCESSING

ii. FOR LOCAL SALES

**iii. FOR TRANS-SHIPMENT AND EXPORT
(UNPROCESSED)**

**b. TRANS-SHIPMENT AT SEA FOR EXPORT FROM FIJI EXCLUSIVE
ECONOMIC ZONE ULTIMATE DESTINATION:**

**c. TRANSPORTATION ONBOARD LICENSED VESSEL OUT OF FIJI
EXCLUSIVE ECONOMIC ZONE ULTIMATE DESTINATION:**

**d. COMBINATION OF a-c
PLEASE SPECIFY:**

15. INTENDED USE OF PORTS AND RELATED FACILITIES WITHIN FIJI

a. FOR DISPOSAL OF CATCH STATE PORT.

**b. OBTAINING ICE, FUEL, FISHING GEAR PROVISIONS OR RECREATION
STATE PORT:**

c. REPAIRS, OUTFITTING OR MAINTENANCE STATE PORT:

**16. DO YOU INTEND OR WOULD YOU BE WILLING TO TRAIN FIJI
CITIZENS IN THE METHODS OF FISHING EMPLOYED BY THE ABOVE
VESSEL**

Yes/No

I/We, owner/s (or owner's certified legal representative) of the above vessel, certify that the above information is true and accurate:

Signed

Dated

Note: Licenses will be issued annually and cost F\$50 plus 5% of the landed market value of the catch.

Enc.

Appendix I. List of highly migratory species

Appendix II. Section 6 of [Marine Spaces Act](#), 1977

Appendix III. Section 12(3) (a-r) of the Marine Spaces Act, 1977

APPENDIX I.

HIGHLY MIGRATORY SPECIES

1. Skipjack (**Katsuwonus pelamis**)
2. Yellowfin tuna (**thunnus albacares**)
3. Bigeye tuna (**Thunnus obesus**)
4. Albacore tuna (**Thunnus alalunga**)
5. Southern bluefin tuna (**Thunnus maccoyii**)
6. Little tuna (**Euthynnus alletteratus**)
7. Frigate tuna (**Auxis spp.**)
8. Butterfly mackerel (**Gasterochisma melampus**)
9. Wahoo (**Acanthocybium solandri**)
10. Lancetfish (**Alepisaurus**)
11. Marlins (**Tetrapturus, Makaira**)
12. Sailfish (**Istiophorus**)
13. Swordfish (**Xiphias gladius**)
14. Pomfrets (**Bramidae**)
15. Dolphin fish (**mahl mahl**) (**Coryphaena**)
16. Oceanic sharks (Hexanchidae, Alopiidae, Carcharhinidae Sphyrnidae, Isuridae, **Cetorhinus Maximus, Rhinocedon typus**)

Appendix II - (Section 6 of the Marine Spaces Act, 1977 to be set out in full).

Appendix III - (Section 12(3) of the Marine Spaces Act, 1977 to be set out in full).

FORM 2.

LICENCE No.:

FEE PAID \$50

MINISTRY OF PRIMARY INDUSTRIES

LICENCE TO FISH IN THE EXCLUSIVE ECONOMIC ZONE OF FIJI

VESSEL.....L.O.A.....

PORT OF REGISTRATION.....

This is to certify that.....of.....being the owner/s, or certified legal representative of the owner(s) of the above fishing vessel, may permit the use of the said vessel for the purpose of fishing within the exclusive economic zone of Fiji from.....19.....to 31 December 19.....according to the following stipulations.

1. Type of fishing:
2. Area to be fished:
3. Period limitation:
4. Allowable catch:
5. Stowage of gear when not in use:
6. Transfer, trans-shipment, landing and processing restriction:
7. Restrictions on entry to Fiji ports:
8. Vessel markings:
9. Entry, exit and reporting procedure:
10. Compliance with the general regulations of the Marine Spaces Act. 1977 of Fiji as detailed overleaf:
11. Special conditions:

Issuing Officer
for the Minister of Primary Industries

Date:

GENERAL REGULATIONS OF THE MARINE SPACES ACT, 1977 OF FIJI I

1. Statistical and other information relating to the operations of the vessel including catch and effort statistics and vessel position with be supplied as requested.
2. The licence must be produced on demand by any Fisheries Officer.
3. The vessel may be required to:

- (a) assist in fisheries research programmes;
- (b) train Fiji personnel in the methods of fishing employed by the vessel; and the transfer to Fiji of fisheries technology;
- (c) permit the placing of Fiji observers on the vessel;
- (d) carry specified nautical charts;
- (e) install and maintain in working order on the vessel of position: fixing or other identification equipment;
- (f) comply with directions and instructions of Fiji ships or aircrafts [sic];
- (g) any other conditions as the Minister considers necessary or expedient for the regulation of fishing or the conservation and management of fisheries.

4. The operations of the vessel must comply with all additional requirements of the Marine Spaces Act, 1977 with specific reference to section 15 of the suspension and cancellation of licences, section 16 on licensing offices, section 17 on the definition of Fisheries Officers, section **18** on the forfeiture of vessels, section **19** on security for release of foreign fishing vessels and section **20** on obstruction of a Fisheries Officer.

Controlled by the Office of the Prime Minister
