



**MARINE RESOURCES (LARGE PELAGIC LONGLINE FISHERY)
REGULATIONS 2012**

Sir F. Goodwin, KBE
Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this

9th day of *June*

2012

Present:

**HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE
IN EXECUTIVE COUNCIL**

PURSUANT to sections 6 and 92 of the Marine Resources Act 2005, the Queen's Representative, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations:

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REGULATIONS

1. Title – These regulations are the Marine Resources (Large Pelagic Longline Fishery) Regulations 2012.

Marine Resources (Large Pelagic Longline Fishery) Regulations 2012

2. Commencement - These regulations comes into force on the day it is assented to by the Queen's Representative.

3. Definitions - The terms and phrases defined in the Marine Resources Act 2005 shall be given the same meaning in these regulations unless the context requires otherwise. In these regulations, unless the context requires otherwise -

“Act” means the Marine Resources Act 2005;

“bycatch species” means non-target, dependent or associated species of the target species;

“commercial fishing” means taking fish for sale;

“conservation and management measures” means measures to conserve and manage one or more species of living marine resources in accordance with the objectives of this Fishery Plan and the provisions of sections 3 and 4 of the Act;

“Fishery Plan” means the large Pelagic Longline Fishery Plan prepared by the Secretary in accordance with section 6 of the Act;

“large pelagic longline fishery” means fishing for the following species:

- Tuna - albacore (*Thunnus alalunga*), bigeye (*Thunnus obesus*), Pacific Bluefin (*Thunnus orientalis*), skipjack (*Katsuwonus pelamis*) and yellowfin (*Thunnus albacares*);
- Billfish - blue marlin (*Makaira nigricans*), black marlin (*Makaira indica*), striped marlin (*Tetrapturus audax*) and swordfish (*Xiphias gladius*); and
- Other large pelagic species (such as mahi mahi (*Coryphaena hippurus*), wahoo (*Acanthocybium solandri*)).

“longline fishing” means fishing using equipment that comprises a mainline, branchlines and hooks.

4. Designation of Longline Fishery - The Large Pelagic Longline Fishery is hereby declared to be a Designated Fishery pursuant to section 6 of the Act.

5. Fishery Plan - (1) The Fishery Plan will apply to the Large Pelagic Longline Fishery.

(2) The Fishery Plan is deemed to have entered into force on the 27th day of August 2008.

6. Application - The Fishery Plan and these regulations apply to all commercial longline fishing, targeting large pelagic species within the fishery waters, except that the Fishery Plan does not apply to -

- (a) exploratory fishing carried out under section 5 of the Act;

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- (b) subsistence fishing; or
- (c) recreational fishing, including the use of recreational vessels for hire or charter.
- (d) The Fishery Plan does not apply to fishing beyond the fishery waters.

7. Limits on fishing effort - (1) The number of tuna longline licences shall be limited to 50 vessels for the fishery waters.

(2) If the Secretary determines that the level of total commercial longline catch in the fishery waters exceeds 8,000 metric tonnes in any 4 quarter period, he or she will review the impact of this level of catch on achievement of the objectives of the Plan, and may reduce the total number of longline licences, or apply appropriate limits to fishing in the fishery waters, which may include time/area closures.

(3) The Secretary may apply additional limits to fishing with the approval of the Minister and after consultation with the Large Pelagic key stakeholders in the large pelagic fishery when he or she is of the opinion that it is in the interest of the sustainability or economic viability of the commercial large pelagic longline fishery.

8. Protection of non-target species - (1) The Cook Islands National Plan Of Action For Reducing Incidental Catch Of Seabirds (NPOA-Seabirds) prepared in accordance with the FAO IPOA-Seabirds, shall be complied with at all times.

(2) The Cook Islands National Plan Of Action For Sea Turtle Bycatch Mitigation (NPOA-Turtles), implementing the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations and the Regional Action Plan for Sea Turtle By-Catch Mitigation in respect of fishing in Cook Islands waters and fishing by Cook Islands vessels, shall be complied with at all times.

(3) The Cook Islands National Plan of Action for the Conservation and Management of Sharks (NPOA-Sharks) prepared in accordance with the FAO IPOA-Sharks, shall be complied with at all times.

(4) The use of trace wire in fishing operations is prohibited.

(5) Licencees are required to avoid the capture, and release unharmed, to the extent practicable, non-target species that are not to be retained.

9. Discarded catches – All discarded catches shall be reported to the Secretary.

10. Vessel licensing – (1) No vessel 10 metres or more in length shall be used for commercial large pelagic longline fishing or related activities in the fishery waters except in accordance with a valid license issued pursuant to the Act.

(2) Applications for a licence for commercial large pelagic longline fishing shall be made to the Secretary in accordance with the Marine Resources (Licensing and Regulation of Fishing Vessels) Regulation 2012.

11. Licensing criteria - When considering an application for a licence, the Minister or the Secretary, as appropriate, shall have regard to –

- (a) whether or not the applicant is a Cook Islander;
- (b) where the applicant is a company, the extent to which the beneficial control of the company vests in Cook Islanders or lies within the Cook Islands jurisdiction; and
- (c) the contribution of the applicant to social and economic development;

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- (d) the compliance record of the applicant, the owner, or the operator of the vessel.

12. Unloading incentive – (1) Where a vessel has unloaded/landed twenty metric tonnes or more of fish products caught in Cook Islands waters in any licence period, and that product has been processed through a local fish processing facility approved by the Secretary, there shall be a reduction from that vessels licence fee for the next ensuing licence period.

(2) The unloading incentive is applicable on submission of all documentation as may be required by the Secretary. All unloaded catch must be of an approved standard as may be determined by the Secretary and any applicable law or regulation.

(3) The amount of the fee reduction shall be set out in the Schedule to these regulations

13. Fishery Development Facility – (1) The Fishery Development Plan established under paragraph 7(2)(c) of the Fishery Plan shall be financed either directly from licence fee receipts or by Government appropriation.

(2) The amount to be transferred shall be set out in the Schedule to these regulations.

14. Transshipment - (1) The licensed/authorised Company vessel shall not land at any port or place in the Cook Islands (except for the island of Rarotonga), or in areas beyond national jurisdiction including areas of high seas, without the express permission in writing, of the Minister.

(2) No fish may be transhipped in the Cook Islands (except for the island of Rarotonga) or in the fishery waters or in areas beyond national jurisdiction, including areas of high seas except as the Minister may authorise in writing in accordance with the Act.

(3) The company shall provide to the Secretary, information relating to the catch offloaded in form as may be prescribed by the Secretary. Such information shall include details of the catch offloaded by weight, species, rejected catch, and final destination of the catch offloaded.

15. Conditions of fishing – (1) All commercial large pelagic longline fishing shall be conducted in accordance with the Act, the regulations, and conditions of licences.

(2) No person operating a vessel 20 metres or more in length shall fish for large pelagic species by horizontal long lining within 24 nautical miles of Rarotonga.

(3) No licensed vessel shall fish within 12 nautical miles of any island of the Cook Islands.

16. Directives - (1) The Secretary may, by notice in writing, give directives providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Fishery Plan including, but not limited to –

- (a) the return or abandonment of any target species or bycatch;
- (b) the impact of fishing operations in the aquatic environment;
- (c) the landing of any fish caught under the authority of a licence outside the fishery waters;
- (d) the maintaining, completion and furnishing of log books, records, returns or other information;

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- (e) the administration, implementation or operation of any monitoring, control or surveillance programme;
- (f) the seasonal or permanent closure of areas to fishing under the authority of any licence.

(2) Any conditions or obligations imposed under any directive issued pursuant to subsection 1 above may be additional to, or more restrictive than, but shall not be inconsistent with, the provisions of the Fishery Plan or the Act.

(3) Any person who fails to comply with any directive issued under this regulation commits an offence and, upon conviction, shall be liable to a fine not exceeding \$100,000.

17. General penalties for breach of regulations – Any person who contravenes any provision of these regulations commits an offence, and unless otherwise provided in these regulations of the Act, shall be liable to a fine not exceeding \$250,000, and where the offence is a continuing one, a further fine of \$5,000 for every day that the offence has occurred.

18. Consequential amendments to the Fishery Plan – The Fishery Plan is amended by –

- (a) deleting from paragraph 4 the words “- sharks, (including a range of shark species),”
- (b) deleting paragraph 11 and substituting –

“11. Limits on fishing effort - (1) The number of tuna longline licences shall be limited to 50 vessels for the fishery waters.

(2) If the Secretary determines that the level of total commercial longline catch in the fishery waters exceeds 8,000 metric tonnes in any 4 quarter period, he or she will review the impact of this level of catch on achievement of the objectives of the Plan, and may reduce the total number of longline licences, or apply appropriate limits to fishing in the fishery waters, which may include time/area closures.

(3) The Secretary may apply additional limits to fishing with the approval of the Minister and after consultation with the Large Pelagic key stakeholders in the large pelagic fishery when he or she is of the opinion that it is in the interest of the sustainability or economic viability of the commercial large pelagic longline fishery.”

- (c) deleting sub-paragraph 2 of paragraph 22 and substituting -

“No person operating a vessel 20 metres or more in length shall fish for large pelagic species by horizontal long lining within 24 nautical miles of Rarotonga; and no licensed vessel shall fish within 12 nautical miles of any island of the Cook Islands.”

- (d) deleting paragraph 27 and substituting –

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“27. Fees – the licencing and other fees applicable and payable under this Fishery Plan are set out in Annex 1.”

- (e) Transhipment and bunkering permit – paragraph 9 of Annex 1 is amended by deleting “\$50” and substituting “\$5,000”.

19. Fees – The licencing and other fees applicable and payable under the Fishery Plan are set out in Schedule hereof.

20. Revocation – The Marine Resources (Longline Fishery) Regulations 2008, the Marine Resources (Longline Fishery) Amendment Regulations 2010, and the Marine Resources (Large Pelagic Longline Fishery) Order 2011 are hereby revoked.

21. Savings – the revocation of the Regulations and Order referred to in section 16 hereof, shall not affect anything whatsoever done pursuant to those regulations.



Clerk of the Executive Council

These regulations are administered by the Ministry of Marine Resources

BY AUTHORITY:
Cook Islands Government 2012

SCHEDULE

Regulations 12, 13, 19

**FEES
(NZ\$)**

1. Application for a fishing licence \$50
2. Application for a transhipment permit \$50
3. Fishing licence for Cook Islands Fishing Vessels -

	Locally-Based	Not Locally-Based
Under 20 metres	\$2,000	
20-40 metres	\$5,000	\$40,000
Over 40 metres	\$7,500	\$60,000

Where the requirements for a vessel to be considered as locally-based are -

- a) the vessel is fully operated from a Cook Islands port;
- b) the vessel fishes mainly in Cook Islands waters; and
- c) the vessel lands all or the majority of its catch in the Cook Islands.

4. Annual fishing licence for Foreign Fishing Vessels -

Under 40 metres L.O.A	Over 40 metres L.O.A
\$50,000	\$75,000

5. Unloading incentive for fishing vessels \$20,000 deduction from the licence fee upon renewal.
6. Annual fishery development fee: payable by all vessels \$10,000 that are not locally-based
7. Transhipment permit \$5000