
Food (Fish Export Processing) Regulations 2006

COOK ISLANDS

FOOD (FISH EXPORT PROCESSING) REGULATIONS 2006

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this 2nd day of May 2006

Present:

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

PURSUANT to section 35A of the Food Act 1992-93, His Excellency the Queen's Representative acting by and with the advice and consent of the Executive Council, hereby makes the following Regulations.

ANALYSIS

1. Title
2. Interpretation
3. Purpose
4. Application of Regulations
5. Contamination of fish species or fishing areas
6. Licences
7. Standards in relation to fish premises
8. Quality checks
9. Transportation by persons other than licensee
10. Records to be kept
11. Removal of condemned or retained fish or fish products
12. Return of fish or fish products by authorised officer
13. Control of unfit fish or fish products
14. Withdrawal of inspection
15. Certification of fish exports
16. Withdrawal of certificate
17. Duty of assistance
18. Misleading labelling
19. Promulgation of circulars
20. Specific approvals

21. Exemptions
22. Reconsideration of decisions of Authorised officers
23. Secretary may issue official assurance
24. Form and content of official assurance
25. Obtaining official assurance
26. Official assurance may be withdrawn
27. Offences and penalties
28. Notices
29. Revocations

Schedule

REGULATIONS

1. Title - These Regulations may be cited as the Food (Fish Export Processing) Regulations 2006.

2. Interpretation - (1) In these Regulations, unless the context otherwise requires,

"the Act" means the Food Act 1992-93;

"accessway" means any passageway, companionway, platform, ladder, stairs, walkway, lift, or other means of access to or from any part of a product area;

"additive"—

(a) means any substance not usually consumed as a food by itself that is added to food in small quantities in order to affect the food's keeping quality, texture, consistency, appearance, odour, taste, alkalinity, or acidity, or to serve any other technological function in the manufacture, processing, preparation, treatment, packing, packaging, transport, or storage of the food, and that results or may be reasonably expected to result (directly or indirectly) in the substance or any of its by products becoming a component of, or otherwise affecting the characteristics of, the food; and

(b) includes any preservative, antioxidant, colouring substance, artificial sweetener, flavouring substance, food conditioner, anticaking agent, gaseous packing agent, propellant, vitamin, mineral, incidental constituent, or processing aid, and any material that is used in the production of a package and becomes a component of, or otherwise affects the characteristics of, any food packed in the package; but

(c) does not include salt or any foodstuff;

"appliance" includes—

(a) the whole or any part of any utensil, machine, fitting, device, instrument, stamp, apparatus, table, or article used or available for use in or for the preparing, marking, processing, packing, storing, carrying, or handling of any fish, fish product, fish by product, ingredient, or additive; and

(b) any utensil or machine used or capable of being used in the cleaning of any appliance;

"approved" means approved by the Secretary;

"authorised officer" means any person appointed under section 30 of the Marine Resources Act 1989, the Secretary, and any officer or employee of the Ministry of Health designated by the Secretary as such or to whom the Secretary may delegate that function pursuant to section 16 of the Ministry of Health Act 1991;

"check" means any activity (including taking and analysing product) carried out by a licensee or the licensee's representative for the purpose of ascertaining whether or not any requirements are being complied with; and "checking" has a corresponding meaning;

"clean", when used as a verb, means the removal of visible contaminants from any surface; and "cleaned" and "cleaning" have corresponding meanings;

"clean seawater" means seawater that—

(a) is free of excessive turbidity, colour, offensive odours, and any contaminating substances; and

(b) meets approved microbiological standards;

"container", in relation to the packing of fish,-

(a) means any barrel, box, bag, carton, can, crate, drum, jar, wrapper, packaging material, or other receptacle or covering; but

(b) does not include a shipping container referred to in accepted transport practice as a shipping container;

"contaminant" means any matter, colour, odour, or taste, that is harmful to or unsuitable for human consumption; and, in relation to any fish or fish product, includes micro-organisms that are harmful to or unsuitable for human consumption; and "contaminate", "contaminated", and "contaminating" have corresponding meanings;

"contamination" -

(a) means the transfer of a contaminant to any fish, fish product, container, appliance, product contact surface, ingredient, additive, potable water supply, or clean seawater supply; and

(b) includes the transfer of a contaminant from any such thing involved at one stage of the processing of any other such thing involved at an earlier or subsequent stage of processing;

"deuration" means the use of a managed aquatic environment to reduce the level of contaminants in live fish;

"excess material" includes any fish or fish product that—

(a) is not fit for human consumption or not intended for human consumption; or

(b) is declared by an authorised officer to be defective;

"export" includes the act of landing into any other county any fish or fish product intended for human consumption that is declared in any associated documentation or record as of Cook Islands origin and which has been taken by any Cook Islands fishing vessel, regardless of whether that fish product was first landed into the Cook Islands;

"export store" means any licensed premises used solely to store fish product for export;

"fish" means all species of fish including crustacea, shellfish, and echinoderms whether alive or not; and includes any part of a fish other than fish byproduct;

"fish byproduct" means any article that is derived in whole or in substantial or known quantities from fish and is not intended or not capable of being used for human consumption;

"Fish product" means-

(a) fish that is not alive and is intended for human consumption; or

(b) live bivalve shellfish; or

(c) any article used or intended for use as human food that, when reduced to a dehydrated state, contains by weight 5 percent or more of fish;

"Fishing vessel" means a vessel, ship of other craft, of whatever size which is used for, equipped to be used for or of a type that is normally used for fishing or related activities;

"Food standard materials", in relation to any material or exposed surface finish used in the building, manufacture, maintenance of any product area of any fish premises, or any appliance in any fish premises, means any material or finish that –

(a) is impervious, non-absorbent, free from depressions, pits, cracks, and crevices; and

(b) is easily cleaned and sanitised; and

(c) is unaffected by any corrosive substance with which it is likely to come into contact; and

- (d) will not transfer contaminants to any product; and
- (e) is durable, resistant to fracture, and capable of withstanding repeated exposure to normal cleaning and sanitising; and
- (f) is resistant to the growth of mould or the accumulation of contaminants; and
- (g) in the case of surfaces (other than those used for walking and standing on during operations), is smooth acid resistant to the accumulation of condensation; and
- (h) in the case of materials lining the walls, floors, or ceilings, is of a colour that does not disguise contaminants, having regard to the lighting arrangements;

"Ingredient" means any substance that is used in the manufacture or processing of fish product in such a way that it is present, whether in a modified form or not, in the final product;

"Inspection" means any activity (including taking and analysing any product) carried out by an Authorised officer for the purpose of ascertaining whether or not any requirement is being complied with;

"Label" means any wording, tag, brand, symbol, picture, or other descriptive matter, written, printed, stencilled, marked embossed, impressed on, appearing on, attached to, or enclosed within-

(a) any fish, fish product, or fish byproduct; or

(b) any container of any fish, fish product, or fish byproduct—for the purpose of describing the contents; and

"labelling" and "labelled" have corresponding meanings;

"Licence" means-

(a) a fish premises licence granted in respect of a fish processing establishment under section 27 of the Marine Resources Act 1989; or

(b) an approval issued in respect of any fishing vessel or premises for the time being exempted from licensing by regulation 21(1) of these Regulations; and

and "licensee" and "licensed" have corresponding meanings;

"Limited processing" means-

(a) any scaling, gutting, deheading, chilling, tailing, or freezing of fish for human consumption;

(b) any other approved processing where any of the fish is intended to be exported for human consumption;

(c) the manufacture and packing of fish byproducts;

"Limited processing fishing vessel" means any fishing vessel used for limited processing;

"Maintenance compound" means any substance used for the purpose of maintaining, repairing, servicing, cleaning, or sanitising appliances or the exposed surfaces of product areas, or for vermin control in fish premises;

"Non-potable water" means water that is neither potable water nor clean seawater;

"Overseas requirements" means any conditions required by the appropriate authorities of foreign countries in respect of the importation of any fish, fish product, or fish byproduct;

"Packing" means the placing or enclosing of any fish or fish product in a container; and

"packed" has a corresponding meaning;

"Potable water" means water that, at the point of usage,-

(a) is pure, clean, wholesome; and

(b) meets the minimum microbiological, chemical, and physical criteria in the Guidelines for Drinking Water Quality, Volume I Recommendations, published by the World Health Organisation, Geneva, as amended from time to time;

"Processing"-

(a) means cutting and all methods of manufacture and preservation; and

(b) includes shucking, gutting, scaling, tailing, cleaning, skinning, deboning, washing, depuration, salting, smoking, cooking, drying, canning, freezing, chilling, thawing, marinating, curing, preserving, mincing, fermenting, or otherwise preparing fish for human consumption, -

and "process" and "processed" have corresponding meanings;

"Product area", in relation to any fish premises, means any department, room, or place where any fish, fish product, additive, ingredient, or container is handled or stored (other than in a form in which it is sufficiently wrapped to minimise the risk of contamination);

"Product contact surface" means any surface with which any fish, fish product, additive, ingredient, or container, in the course of normal operations in any product area, can be expected to come into contact;

"Product handler" means any person who, in the course of the person's employment, comes into direct contact with any fish, fish product, additive, ingredient, container, or product contact surface;

"Protective clothing" means working garments (including overalls, aprons, sleeves, gloves, headwear, footwear and facial hair coverings) used as outer wear while working in any fish premises;

"Ready-to-eat product" means any fish product that may be eaten with little or no preparation or cooking;

"Required" means required by or under-

(a) the Act, these Regulations, any circulars issued by the Secretary under these Regulations, or any specific approvals or exemptions granted by the Secretary under these Regulations; or

(b) the terms of any licence or any conditions attached to it; or

(c) the instructions of an authorised officer carrying out duties or functions under the Act or these Regulations; -

and "requirement" has a corresponding meaning;

"Sanitary design" means designed and made so that an area, conveyance, or appliance-

(a) meets the requirements appropriate to its use; and

(b) can be readily maintained, cleaned, and sanitised where required to ensure that it is free from contaminants and vermin; -

and, in relation to any appliance or accessway in any product area, also means that the appliance or accessway-

(c) is easily accessible for maintenance, cleaning, operation, checking, and inspection; and

(d) does not allow contaminants to contact any product or other appliance; and

(e) precludes the harbouring or accumulation of any contaminants or vermin;

"Sanitising" means the application of an approved chemical or physical agent with the intention of reducing microbial contamination to a level that will avert the creation of a human health hazard in the product; and "sanitised" has a corresponding meaning;

"Secretary" means the Secretary of the Ministry of Health appointed pursuant to the Ministry of Health Act 1991;

"Store" means any part of any fish premises, whether refrigerated or not, used for the storing of-

(a) fish products; or

(b) additives; or

(c) ingredients; or

(d) containers,-

that are sufficiently wrapped to minimise the risk of contamination;

"Suitable", in relation to fish and fish products, means suitable for human consumption by reason of being free of characteristics that are specified, in the form of criteria in a circular issued under regulation 19 of these Regulations, as being objectionable (but not necessarily harmful) having regard to the use for which the fish or fish product is intended; and

"suitability" has a corresponding meaning and "unsuitable" has the opposite meaning;

"Support area" means any area within any fish premises where any fish, fish product, additives, ingredients, containers, or appliances may pass through or be temporarily held; other than a product area or store;

"Unfit for human consumption", in relation to any fish or fish product, means the fish or fish product is not safe or is not suitable for human consumption on account of the presence of contaminants or on account of any defect;

"Vermin" includes any member of the animal kingdom (other than a human) likely to contaminate any fish, fish product, or fish byproduct;

"Whole fish processing" means the chilling, freezing, or packing of approved fish species or any combination of such processing where any of the fish is intended to be exported for human consumption without gutting, scaling, shelling, deheading, tailing, or any other form of processing;

"Whole fish processing premises" means any premises used for whole fish processing.

(2) Where approval is required in relation to any matter or thing under these Regulations, such approval may be obtained-

(a) by complying with the relevant circulars issued under regulation 19 of these Regulations; or

(b) by obtaining a specific approval under regulation 20 of these Regulations.

3. Purpose - (1) The purpose of these Regulations is to enable the provision of assurances as to-

(a) the safety and suitability of fish and fish products intended for export for human consumption, and (if necessary to meet overseas requirements) of fish byproducts; and

(b) the integrity of certification and labelling relating to fish and fish products for export for human consumption, and (if necessary to meet overseas requirements) to fish byproducts.

(2) All persons exercising functions and powers under these Regulations shall exercise such functions and powers in a manner that maintains the integrity of such assurances where fish product is handled, packed, processed, stored or transported or otherwise prepared for export for human consumption.

4. Application of Regulations - (1) Except as otherwise expressly provided in these Regulations, these Regulations apply to-

(a) fish premises and appliances used or proposed to be used for or in connection with the processing, packing, handling, storing, transporting or other preparation of fish or fish

products intended for export for human consumption, or (where necessary to meet overseas requirements) of fish byproducts;

(b) all fish, fish products, and (where necessary to meet overseas requirements) fish byproducts intended to be processed, packed, handled or stored or otherwise prepared in fish premises for export for human consumption;

(c) all fish and fish products in fish premises for export for human consumption;

(d) the processing, packing, handling, storing, and transport operations undertaken by a licensee in respect of fish, fish products, or (where necessary to meet overseas requirements) fish byproducts for export for human consumption;

(e) the storing and transportation by any person, other than a licensee of fish, fish products, or (where necessary to meet overseas requirements) fish byproducts, intended for export.

(2) Nothing in these Regulations applies to-

(a) fish intended to be exported alive but not intended for export for human consumption; or

(b) fish or fish products held in fish premises for the purpose of domestic sale if held in a room that is especially set aside for that purpose and no other purpose, and the room does not give direct access to the remainder of the fish premises.

(3) These Regulations do not apply to fish, or fish products or byproducts, whose processing is exempted by the Secretary under regulation 19 or 20 of these Regulations.

5. Contamination of fish species or fishing areas - (1) The Secretary may, for the purpose of clause 3 of Part 3 of the Schedule to these Regulations, give notice to licensees that a species or type of fish, or an area from which fish is taken, is in the Secretary's opinion likely to be unsafe due to contamination.

(2) The Secretary may by notice to licensees declare that a species or type of fish is subject to clause 4 of that Part of that Schedule.

6. Licences - (1) The Secretary shall not issue a licence unless satisfied that the fish premises comply with the standards set out in Part 1 of the Schedule to these Regulations.

(2) Every licence is subject to the following conditions-

(a) the fish premises shall not be used for any purpose other than an approved purpose or for the purpose specified on the licence;

(b) the licensee shall obtain the consent of the Secretary before changing or extending the use of the fish premises from the use for which it is licensed or approved;

(c) the licensee shall, during the term for which the licence is issued, ensure that all requirements appropriate to the premises are met.

(3) None of the following are required to be licensed-

(a) premises used solely for the purpose of storing or reducing the temperature of fish or fish product;

(b) fish depots;

- (c) fishing vessels where the only processing carried out on Secretary is limited processing or whole fish processing and the fish or fish product is landed into or transported (whether directly or through premises referred to in paragraph (a) or paragraph (b) or paragraph (g) of this subclause) from the fishing vessel to fish premises for processing or packing or both.
- (d) premises where the only processing carried out is whole fish processing and the fish is directly transported (whether directly or through premises referred to in paragraph (a), or paragraph (b) or paragraph (g) of this subclause) from those premises to fish premises for processing or packing or both;
- (e) tourist accommodation and facilities;
- (f) approved fishing vessels and approved premises for the time being exempted from licensing by regulation 21(1) of these Regulations;
- (g) premises used for holding live fish (other than bivalve molluscan shellfish) that are intended to be directly transported from those premises to fish premises for processing or packing or both.

7. Standards in relation to fish premises - Premises being used as a fish premises shall comply with such of the standards set out in the Schedule to these Regulations as are applicable to the licensed use of the premises.

8. Quality checks - Every licensee shall implement an approved programme so as to ensure that-

- (a) regular checks on compliance with the requirements are made; and
- (b) the results of the checks are recorded; and
- (c) corrective action is taken within an approved period of time if a check reveals non-compliance with a requirement.

9. Transportation by persons other than licensee - (1) This regulation applies to any person transporting fish, fish products, or (where necessary to meet overseas requirements) fish byproducts, intended for export, but does not apply to any licensee or person under the control of a licensee.

(2) Every person to whom this regulation applies shall transport any fish, fish products, or fish byproducts in accordance with Part 5 of the Schedule to these Regulations as if that person were a licensee undertaking transportation of fish, fish products, or fish byproducts.

10. Records to be kept - (1) Every licensee shall keep such records as will enable the licensee, the Secretary, or any Authorised officer to readily ascertain-

- (a) the nature, quantity, and source of any fish or fish product handled in the fish premises; and
- (b) the date on which each container of fish or fish product was packed; and
- (c) where unpacked fish or fish product in the fish premises has been held at some other fish premises, the identity of those other fish premises; and
- (d) compliance with the requirements or the certification requirements of any foreign country to which any fish or fish product handled in fish premises has been or is to be exported; and
- (e) such other details as may be required by the Secretary for the purposes of these Regulations and notified to the licensee.

(2) Records required under this regulation shall be kept at an approved place in the Cook Islands or with an agent outside the Cook Islands if approved by the Secretary and in an approved manner for a period of not less than 3 years from the date on which they came into being.

(3) Notwithstanding subclause (2) of this regulation, the Secretary may, either by notice in writing to a licensee or by notice in the Gazette, reduce the period for which records are to be kept.

(4) Every licensee shall, when requested by the Secretary or an Authorised officer, immediately furnish the records required to be kept under this regulation and requested by the Secretary or by an Authorised officer. The licensee shall, if requested, also supply to the Secretary or to an Authorised officer copies of such records.

(5) Where a licensee is required to furnish the Secretary or an Authorised officer with records under subclause (4) of this regulation, the licensee shall ensure that all records supplied to the Secretary or an Authorised officer are in English and can be accessed by the Secretary or an Authorised officer, as the case may be.

11. Removal of condemned or retained fish or fish products - Except with the prior consent of an Authorised officer, no person shall remove from the control or possession of an Authorised officer, or in any way alter or interfere with, any fish, fish product, or fish byproduct taken as a sample, condemned, retained, or seized by an Authorised officer.

12. Return of fish or fish products by authorised officer - Where an Authorised officer is satisfied that any fish or fish product retained by him or her other than as a sample is, or has been rendered, fit for human consumption, the Authorised officer shall release the fish or fish product to any person entitled to receive it.

13. Control of unfit fish or fish products - (1) Fish or fish products found to be unfit for human consumption (whether or not condemned or retained by an Authorised officer) shall be disposed of by the licensee in a manner that, in the opinion of an Authorised officer, minimises the risk of contamination and ensures that the unfit material is rendered inedible.

(2) Any Authorised officer may give to the person for the time being in charge of any premises or part thereof such directions as appear to him or her to be appropriate to ensure that any fish or fish product that is, or is believed by the Authorised officer to be likely to be, unfit for human consumption is retained and appropriately held within the premises until it is disposed of in accordance with these Regulations. Any such direction shall be complied with by the person to whom it is given.

14. Withdrawal of inspection - (1) Where the Secretary considers that conditions or procedures existing in any fish premises are contrary to any requirements, the Secretary may, after notifying the licensee in writing of the reasons for that opinion, withdraw inspection services from the fish premises, or part thereof, as the case may require, until such time as the Secretary is satisfied that those requirements are being fulfilled in that case.

(2) If inspection is withdrawn from fish premises, or part thereof, under subclause (1) of this regulation, then, until notification from the Secretary to the licensee that inspection services

have recommenced, no person shall process, pack, or certify fish or fish products in or from those fish premises.

15. Certification of fish exports - (1) No fish or fish product intended for export for human consumption shall be exported unless a certificate in respect of that fish or fish product has been issued pursuant to these Regulations and is in force.

(2) No certificate shall be issued under subclause (1) of this regulation unless the fish or fish product-

(a) has been processed and packed in fish premises that has been licensed for that use; and

(b) has been processed, packed, labelled, stored, and transported in accordance with the requirements; and

(c) in the opinion of the person issuing the certificate the fish or fish product, is fit for human consumption; and

(d) meets any overseas requirements that the Secretary has approved and advised to the licensee.

(3) Where required to meet overseas requirements or upon request by a licensee, an Authorised officer may duly issue certificates for fish byproducts.

(4) No certificate shall be issued pursuant to these Regulations other than by an Authorised officer or a person approved by the Secretary. Any approval given by the Secretary to any other person under this subclause may be the subject of such conditions as the Secretary may consider appropriate and may be revoked at any time by the Secretary.

(5) Any certificate issued under this regulation shall be in an approved form and shall be fully completed in an approved manner before being signed by an Authorised officer or a person approved by the Secretary. Any certificate not in accordance with this subclause shall be deemed not to have been issued under this regulation.

(6) Nothing in this regulation applies to any fish or fish product intended for export that is not intended for resale, where the amount of fish or fish product in any one consignment does not exceed 10 kg, unless an export certificate is required by the importing country.

16. Withdrawal of certificate - (1) Subject to subclause (2) of this regulation, the Secretary or an Authorised officer may, at any time and without having regard to the location of the certified consignment, withdraw a certificate issued under regulation 15 of these Regulations if-

(a) the statements on the certificate are not accurate or are no longer true, whether or not in respect of all or some of the fish, fish products, or fish byproducts; or

(b) the certificate is not or is no longer acceptable to the authorities in the country to which the fish, fish products, or fish byproducts are or were destined.

(2) The power to withdraw a certificate under this regulation may be exercised by the Secretary or an Authorised officer, notwithstanding that the person withdrawing the certificate did not issue the certificate.

(3) For the purposes of this regulation the Secretary or an Authorised officer may inspect any fish, fish product, or fish byproduct notwithstanding that a certificate has been issued in respect of that fish, fish product, or fish byproduct.

(4) Where a certificate has been withdrawn pursuant to subclause (1) of this regulation, the person withdrawing the certificate-

(a) shall direct how fish, fish products, or fish byproducts that are no longer suitable for certification are to be dealt with; and

(b) may, if requested, issue a further certificate to cover any fish, fish products, or fish byproducts that were included in the original certificate and in respect of which a certificate could, at the time of inspection, be issued.

(5) Every direction given under subclause (4) of this regulation shall be complied with by the person to whom it is given.

(6) Where a certificate has been withdrawn under this regulation, the person in possession of the certificate and any copies of the certificate shall make all reasonable efforts to surrender them immediately to the person withdrawing the certificate.

17. Duty of assistance - Every person applying for a licence and every licensee shall ensure that at all reasonable times the person's agents and employees-

(a) furnish any Authorised officer with free and unencumbered access to and use of such amenities, facilities, appliances and records; and

(b) supply such information including information in respect of additives, ingredients, containers, or maintenance compounds, or information in respect of the processes used in dealing with any fish, fish product, or fish byproduct; and

(c) demonstrate such processes; and

(d) comply with such lawful instructions,

as the Authorised officer may reasonably require while carrying out his or her duties and functions under the Act or these Regulations.

18. Misleading labelling - (1) The Secretary or an Authorised officer may direct a licensee to discontinue the use of any wording, on a container, that is untrue or misleading, and any such direction shall be complied with by the licensee to whom it is given.

(2) The Secretary or an Authorised officer may direct a licensee to discontinue the use of such marking particulars as the Secretary may specify for the purpose of ensuring that the container or label conforms to the requirements of the country to which it is intended to export the fish, fish product, or fish byproduct.

19. Promulgation of circulars - (1) For the purposes of these Regulations, the Secretary may from time to time issue circulars-

- (a) setting out general criteria for the drawing up, accomplishment, demonstration, carrying on, or provision of any act, plan, proposal, matter, system, process, or thing governed by these Regulations;
- (b) amending, adding to or revoking any standards set out in the Schedule to these Regulations.

(2) In determining the content of any circular, the Secretary shall, so far as is reasonably practicable in the circumstances, consult with fishing licence holders, fishing vessel owners, fish exporters or seafood industry organisations for the time being considered by the Secretary, as appropriate, having regard to the subject matter of the proposed circular.

(3) The Secretary may in like manner amend or revoke any circular.

(4) Notice of the promulgation, amendment, or revocation of a circular under this regulation shall be given to every licensee to whom it applies.

20. Specific approvals - For the purposes of these Regulations, the Secretary may issue specific approvals in relation to the drawing up, accomplishment, demonstration, carrying on, or provision of any act, plan, proposal, matter, system, process or thing to which these Regulations apply, and the following provisions shall apply in relation to such approvals -

- (a) the approval shall be in writing;
- (b) the approval may be issued to any person or class of persons;
- (c) the approval may be unconditional or subject to such conditions as the Secretary thinks necessary;
- (d) the Secretary may amend or revoke any specific approval if the Secretary believes on reasonable grounds that-
 - (i) the approval has not consistently resulted in fish or fish products that are fit for human consumption; or
 - (ii) the licensee cannot be relied on to carry out, or may no longer be capable of carrying out, the conditions on which the approval was issued; or
 - (iii) the premises or appliances used in the premises are no longer suitable for the purpose for which the approval was issued.

21. Exemptions - (1) Upon application in an approved form accompanied by the prescribed fee (if any) the Secretary may, if satisfied that-

- (a) the refrigeration facilities are adequate; and
- (b) the conditions under which the fish are to be processed are such as to produce any fish or fish product suitable for export,-

exempt from licensing any fishing vessel conducting or intended to be used to conduct limited processing or any premises conducting or intended to be used to conduct whole fish processing, where the fish or fish product is not to be landed into or transported directly to fish premises for processing or packing or both.

(2) Any exemption granted under subclause (1) of this regulation may be subject to such

conditions relating to the exempted premises as the Secretary thinks necessary and specifies in writing to the applicant; and the Secretary may at any time in like manner vary or revoke any such conditions or impose new conditions.

(3) The Secretary may exempt from the requirements of these Regulations (not relating to licensing) any particular premises or process or any class of premises or process if satisfied that, in the circumstances of the case, the requirement is not necessary.

22. Reconsideration of decisions of Authorised officers - (1) Any person who is dissatisfied with any requirement, direction, or decision given or made by any Authorised officer under these Regulations may, by notice in writing lodged with the Secretary within 15 working days after the date of the requirement, direction, or decision, request the Secretary to direct the Authorised officer to reconsider the requirement, direction, or decision.

(2) The Secretary may, but is not obliged to, direct an Authorised officer to reconsider any such requirement, direction, or decision.

(3) The Authorised officer shall reconsider every such requirement, direction, or decision when so directed.

23. Secretary may issue official assurance - (1) For the purposes of meeting the market access requirements of any foreign government the Secretary in respect of any fish product to be exported, the Secretary, or a person authorised by the Secretary, may, in appropriate cases, issue an official assurance in respect of the fish or fish product.

(2) Without limiting the matters to which an official assurance may apply, an official assurance is a general statement to a foreign government, or an agent of a foreign government, attesting that, as appropriate, any 1 or more of the following applies in respect of any fish or fish product:

- (a) any specified process has been completed under the Act or these Regulations with respect to the fish or fish products concerned;
- (b) the fish or fish product concerned meets any standards set under the Act or these Regulations for that fish or fish product;
- (c) any market access requirements of the importing country, which the Cook Islands has agreed to meet, that are stated in the assurance have been met by the system under which the fish or fish product was produced or processed;
- (d) the situation in the Cook Islands, in relation to any matter concerning fish or fish products, is as stated in the assurance.

(3) An official assurance is not a guarantee that the contents of all or any particular consignment of fish or fish products to which it relates -

- (a) necessarily meet the commercial requirements of the importer; or
- (b) are fit for consumption or use no matter what the status or description of the consumer or user, or what has happened to the consignment or what has been its treatment since it left the Cook Islands or Cook Islands fish premise; or
- (c) are fit for consumption or use for a purpose other than that for which they were intended.

24. Form and content of official assurance - (1) An official assurance may be in the form of a certificate or declaration or in such other form as may be determined by the Secretary.

(2) An official assurance may relate to –

- (a) one or more consignments of fish or fish product; or
- (b) one or more producers or processors or exporters of fish or fish product; or
- (c) one or more export destinations; or
- (d) any combination of the above.

(3) An official assurance may be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.

(4) The Secretary may, by notice, issue specifications setting out requirements and procedures for the issue and control of official assurances.

25. Obtaining of official assurance - (1) A person who wishes to obtain an official assurance in respect of any fish or fish product for export may apply in a manner approved by the Secretary and must supply any information required by the Secretary and pay any prescribed fee (if any).

(2) The Secretary need not issue an official assurance unless satisfied that the information obtained from the applicant justifies the giving of the assurance.

26. Official assurance may be withdrawn, and reissued - (1) An official assurance may be withdrawn by the Secretary or other authorised person if the Secretary or person is satisfied that-

- (a) the assurance was incorrectly or inappropriately given; or
- (b) events or circumstances occurring since the assurance was given mean that it no longer holds true, or is misleading.

(2) The Secretary or other authorised person may, on application in a manner approved by the Secretary and on payment of the prescribed fee (if any), reissue the official assurance (with any modifications, if appropriate) as a new official assurance.

27. Offences and penalties - (1) Every person commits an offence who:

- (a) fails to comply with any requirement imposed by or under these Regulations.
- (b) fails to provide any or records or information or who neglects or refuses to furnish any records or information when lawfully requested or required to do so by or under these Regulations.
- (c) makes any false or misleading statement or any material omission in any application, certificate, communication or record for the purposes of the Act or these Regulations.

(2) Every person who commits an offence against sub-clause (1) of this regulation shall, on

conviction, be liable to a fine not exceeding \$100,000 and, if the offence is a continuing one, to a further fine not exceeding \$1000 per day for each day during which the offence is continued.

28. Notices - (1) Subject to these Regulations, any notice, requirement, standard, direction, approval, consent, permission, authority, or prohibition authorised to be given or made pursuant to these requirements by the Secretary shall be communicated in writing as follows-

(a) where it relates to a fish premises, or any operation being carried on in those premises, or any person, fish, fish product, fish byproduct, appliance, or thing in those premises, it shall be sufficiently communicated to the licensee by-

(i) delivering it in writing personally to the licensee; or

(ii) sending it by post or facsimile to him or her at the fish premises, or at his or her usual or last known place of residence or business; or

(iii) delivering it to the manager or other person appearing to be in charge, for the time being, of the fish premises; or

(iv) in the case of an incorporated company, delivering it to the manager or other person appearing to be in charge, for the time being, at the registered office of the company or sending it by post or facsimile to the company at that office; or

(v) attaching it in a prominent place at the fish premises, or

(vi) delivering it to an agent of the licensee;

(b) where it relates to any other premises or any operation being carried on in those premises, or any person, fish, fish product, fish byproduct, appliance, or thing in those premises, it shall be sufficiently communicated to the person for the time being appearing to be in charge of such premises by-

(i) delivering it in writing personally to the licensee; or

(ii) sending it by post or facsimile to him or her at the premises or at his or her usual or last known place of residence or business; or

(iii) in the case of an incorporated company, delivering it to the manager or other person appearing to be in charge, for the time being, of the registered office of the company or sending it by post or facsimile to the company at that office; or

(iv) attaching it in a prominent place at the premises; or

(v) delivering to an agent of the licensee.

(2) Any such writing sent by post shall, until the contrary is proved, be deemed to have been received by the person to whom it is sent, and at the time when the ordinary course of post it would have been delivered. Any such writing sent by facsimile shall, until the contrary is proved, be deemed to have been received by the person to whom it is sent on the day a confirmation of clear facsimile transmission is obtained by the sender.

Clerk of the Executive Council

These Regulations are administered by the Ministry of Health

SCHEDULE

PART 1

STANDARDS RELATING TO FISH PREMISES

Site and layout

1. All fish premises (other than fishing vessels) shall be located in a place and constructed in a way that minimises the risk of contamination.
2. The premises shall be designed and constructed so as to minimize -
 - (a) the entry and harbouring of vermin; and
 - (b) the entry of contaminants into product areas and stores; and
 - (c) Cross-contamination between unprocessed fish, fish products, and fish byproducts; and
 - (d) the contamination of product areas from non-product areas, accessways, and excess material facilities.
3. The premises shall be separated in an approved manner from -
 - (a) living quarters; and
 - (b) retail shops; and
 - (c) auction places; and
 - (d) places not directly used for the processing or packing of fish, fish products, or fish byproducts.

Structures

4. Product areas shall be of a sanitary design and shall be completed and maintained in an approved manner, and in particular,
 - (a) where water is used, the floor shall be free of pools of water at all times except in foot-baths or other areas designed to hold water for sanitation purposes; and
 - (b) exposed surfaces of floors and accessways shall be covered with or made of food standard materials; and
 - (c) walls and ceilings shall-
 - (i) be lined with or made of food standard materials; and
 - (ii) be of sufficient height to allow operations to be carried out to the standards required under these Regulations; and
 - (d) doors and windows shall be of a sanitary design and lined with or constructed of food standard materials; and
 - (e) product areas shall be internally arranged so that, -
 - (i) there is adequate working space for each operation to be performed to the required standard; and

(ii) at all stages in processing, the product is as fully protected from contamination so far as is practicable.

5. Stores and support areas shall be of a sanitary design having regard to their use.
Water supply.

6. The water supply shall be sourced, inspected, tested, and, where necessary, treated, and the reticulation system designed, constructed, and operated using approved means, so as to provide a potable water supply and to minimise the risk of contamination to the potable water.

7. Where clean seawater is used in the premises -

- (a) the supply of seawater shall be sourced, inspected, tested, and, where necessary, treated; and
- (b) the reticulation system shall be designed, constructed, maintained, and operated-

so as to minimise the risk of contamination to the clean seawater.

8. Where non potable water is used -

- (a) the supply of non potable water shall be sourced; and
- (b) the reticulation system shall be designed, constructed, maintained and operated-

so as to minimise the risk of contamination.

9. If required by the Secretary, water (including recycled water and clean seawater) shall be treated in an approved manner to ensure that it is of the required standard.

10. All water lines shall be identified using approved means so that potable water, clean seawater, and non-potable water lines are distinguishable.

11. The premises shall have a supply of hot water at an approved temperature which shall be sufficient to maintain the required hygiene standards in relation to the proposed operations in the premises.

Excess material disposal

12. The premises shall have

- (a) facilities sufficient to dispose of, in a manner that, in the opinion of an Authorised officer, minimises the risk of contamination and ensures that the unfit material is rendered inedible, all solid excess material produced in the premises when the premises are at a maximum level of production; and
- (b) sufficient drains to remove all liquid excess material produced in the premises during periods of maximum level of production so that there is no ponding, which drains shall be constructed so that the entry of contaminants or vermin into product areas is minimised.

13. Where appliances for holding or collecting excess material or fish byproducts are to be used, they shall-

- (a) be clearly identified as such; and
- (b) be easily capable of being cleaned; and
- (c) have adequate protection against the entry of vermin; and
- (d) be located so that the risk of contamination is minimised.

Lighting

14. The premises shall have approved means of lighting that

- (a) is of an intensity sufficient to carry out the required operations, checks, and inspections effectively; and
- (b) is designed, located, and made so that in the event of breakage the risk of contamination is minimised; and
- (c) does not significantly distort or alter the colour or appearance of product areas, support areas, appliances, fish, or fish products.

Ventilation

15. The ventilation arrangements in product areas shall be of an approved kind such that during operations -

- (a) steam and condensation are minimised; and
- (b) the risk of contaminants being admitted to the premises is minimised; and
- (c) the direction of air flow minimises the risk of contamination to any fish product at one stage of processing from any fish, fish product at an earlier stage of processing, or excess material, or fish byproduct.

Temperature

16. There shall be provided within the premises, or closely adjacent to the premises sufficient refrigeration of a sanitary design and which is of an approved type and capacity to prevent deterioration of the fish, fish products, or fish byproducts processed, packed, or stored in the premises.

Monitoring

17. Where approved process monitoring devices are required as part of an approved process, the approved process monitoring devices shall be -

- (a) located in appropriate positions in the premises where their use is necessary to ensure that the required standards are being met; and
- (b) calibrated by approved means at approved intervals.

Cleaning and sanitising

18. The premises shall have sufficient facilities of an approved type and in approved locations so as to meet required hygiene standards for persons, protective clothing, product areas, support areas, amenities, appliances, and operations.

Amenities for employees

19. The premises shall have amenities designed, located, built, and maintained, in an approved manner that-

- (a) provide sufficient space and fittings for employees to consume food, change clothes, store personal belongings, and attend to personal hygiene; and
- (b) facilitate cleanliness, tidiness, and the exclusion of vermin; and
- (c) do not open directly onto any product area.

Checks

20. Where checks are required as part of an approved process, there shall be provided in the premises appropriate working areas, appliances, facilities, materials, and personnel so that the checks can be carried out to the required standard.

Appliances

21. All appliances used in contact with fish, fish products, ingredients, or additives shall be made of food standard materials and shall be of a sanitary design.

22. All appliances used in fish premises other than those appliances referred to in clause 21 of this Part shall be of a type that minimises the risk of contamination.

23. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations.

PART 2

STANDARDS RELATING TO PERSONNEL

Health

1. No person shall work as a product handler, or in an area in which contamination could occur (whether or not as a product handler), who-

- (a) is infected with or a carrier of a notifiable disease in communicable form (including any notifiable disease as defined in the Notifiable Diseases Ordinance 1953); or
- (b) is suffering from boils, sores, infected wounds, or acute respiratory infection or gastroenteritis or any other condition likely to place fish or fish products at risk of contamination.

2. Any product handler who is suffering an open wound, or a bleeding or discharging injury or infection other than those listed in clause 1 of this Part, may continue to work only under approved conditions.

3. No product handler suspected by an employer of being infected or suffering in the manner set out in clause 1 of this Part shall work as such unless he or she has been examined and certified by a registered medical practitioner as being not infected or as not suffering from any of the conditions referred to in that clause.

Personal hygiene

4. All product handlers, other workers, and visitors shall comply with an approved code of conduct and dress so that the risk of direct or indirect contamination is minimised.

5. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations.

PART 3

STANDARDS RELATING TO RECEPTION OF FISH

1. No fish or fish products shall be received into the product area of fish premises

(a) if it is apparent, or should be apparent to a person exercising reasonable care in the circumstances, that the fish (not being fish accepted for depuration) or fish products are unfit for human consumption; or

(b) if, since the time of catching or harvesting, the fish or fish products have not been handled, held, and transported in an approved manner so as to prevent deterioration and to protect it from contamination; or

(c) if the fish or fish products have not been labelled or identified in an approved manner; or

(d) if there is not in force in respect of the premises an approved programme to ensure that the requirements of this Part of this Schedule are complied with.

2. Fish or fish products found to be unfit for human consumption shall be disposed of in a manner that, in the opinion of an Authorised officer, minimises the risk of contamination and ensures that the unfit material is rendered inedible.

3. Fish received into the product area of fish premises shall not

(a) have been grown in or taken from a place within an area; or

(b) be of a species or type-

being from an area or of a species or type that the Secretary has advised the licensee under regulation 5(1) of these Regulations is unsafe due to contamination.

4. Fish declared by the Secretary to be subject to this clause under regulation 5(2) of these Regulations and received into a product area of fish premises shall have been grown in or

taken from a place for which there is an approved monitoring programme to show that the place is not contaminated at the time of catching or harvesting.

5. Fish or fish products intended to be imported into the Cook Islands from outside the Cook Islands for processing or packing in fish premises for later export from the Cook Islands shall not be received into fish premises unless they have been approved by the Secretary.

6. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations.

PART 4

STANDARDS RELATING TO LABELLING

1. All containers of fish, fish products, or fish byproducts intended to be exported from the Cook Islands shall be labelled in an approved manner.

2. All containers of fish or fish products transferred to, or between fish premises or from fishing vessels (including shellfish harvesting barges) to fish premises shall be labelled or identified in an approved manner.

3. All fish and fish products intended for sale on the domestic market shall be labelled in an approved manner (if any) to distinguish it from other fish or fish product.

4. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations.

PART 5

STANDARDS RELATING TO STORAGE AND TRANSPORTATION

1. Fish and fish products that are or may be intended for export, and have been processed or packed, shall not be stored before export otherwise than in fish premises or an export store.

2. Fish and fish products shall be maintained under approved temperature regimes while being transported or stored.

3. No fish or fish products shall be transported or stored with any other things that may contaminate them unless they are packed in an approved manner so as to provide satisfactory protection.

4. Fish, fish products, or fish byproducts that are intended for use as bait or for the manufacture of food for pets or any member of the animal kingdom (other than humans) shall be stored in the same place with fish or fish product that is intended for human consumption only if the risk of contamination is minimised.

5. Fish and fish products shall be transported in conveyances or shipping containers constructed and maintained to an approved standard so as to minimise the risk of

contamination, deterioration, or decomposition of the fish or fish products.

6. Where required as a part of an approved regime under clause 2 of this Part, all refrigerated transport units used for the transportation of fish shall be equipped with approved monitoring and recording devices.

7. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations.

PART 6

STANDARDS RELATING TO CERTAIN FISH

Such special standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations in respect of certain fish.