



FALKLAND ISLANDS

Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022

(No. 25 OF 2022)

ARRANGEMENT OF PROVISIONS

Regulation

PART 1 - INTRODUCTORY

1. Title
2. Commencement and term
3. Interpretation

PART 2 - FISHING LICENCES

4. Application of this Part
5. Application for fishing licences
6. Fishing licences
7. Fishing licence fees
8. Payment of licence fees
9. Prompt payment discount
10. Loyalty discount
11. Refund of licence fees

PART 3 - TRANS-SHIPMENT AND EXPORT

12. Application of this Part
13. Trans-shipment and export licences
14. Trans-shipment and export licence fees

PART 4 - SCIENTIFIC PERMITS

15. Application of this Part
16. Scientific permits

Schedule 1 - Fishing Licence Fees

Schedule 2 - Fishing Licence Fees Refund Policy



FALKLAND ISLANDS

Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022

(made: 8 November 2022)
(commencement: in accordance with regulation 2)
(published: 9 November 2022)

I make the following Regulations under sections 41(1), 42(1), 46, 223(1), (2)(b), and (p) of the Fisheries (Conservation and Management) Ordinance 2005 on the advice of Executive Council.

PART 1 - INTRODUCTORY

1. Title

These Regulations are the Fishing, Trans-shipment and Export (Licence Fees etc) Regulations 2022.

2. Commencement and term

- (1) This Part and regulation 5 come into force on publication in the *Gazette*.
- (2) The remainder of these regulations come into force on 1 January 2023.
- (3) ...

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

3. Interpretation

In these regulations —

“**adjusted catch**” is the adjusted catch as a result of an adjustment under paragraph 2 of Schedule 2;

“**FIPASS**” means the Falkland Interim Port and Storage System as defined under the Falkland Interim Port and Storage System Ordinance 1989;

“**fishery**” means the Squid - JIG or Trawl fishery (Licence Code B);

“**fishing licence**” means a fishing licence under section 41 of the Ordinance granted under regulation 6(1);

“**International Fishing Vessel Safety Certificate**” means an International Fishing Vessel Certificate issued in accordance with the Torremolinos Protocol 1993;

“**Licence Allocation Policy**” means the policy relating to fishing licences determined by the Governor;

“**licence fee**” means a fee for a fishing licence;

“**refund policy**” means the policy referred to in regulation 11 and set out in Schedule 2;

“**the Ordinance**” means the Fisheries (Conservation and Management) Ordinance 2005;

“**Torremolinos Convention**” means the Torremolinos International Convention for the Safety of Fishing Vessels 1977;

“**Torremolinos Protocol**” means the 1993 Torremolinos Protocol to the Torremolinos Convention; and

“**trans-ship**” means to trans-ship fish in a port or harbour in the Falkland Islands specified in a trans-shipment licence.

PART 2 - FISHING LICENCES

4. Application of this Part

This Part applies to fishing licences for Squid - JIG or Trawl fishery (Licence Code B).

5. Application for fishing licences

(1) An application for a fishing licence must —

(a) be made to the Director; and

(b) be submitted during the period starting from midnight 30 October 2023 to midday 10 November 2023 (“**application period**”) or such other date as may be set by the Director by notice.

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

(2) A person who applies for a fishing licence in respect of a fishing vessel that they do not own must submit proof with the application that they have the consent of the owner of the vessel to apply.

(3) The Director may only consider and assess one complete application per fishing vessel.

(4) For purposes of subregulation (3), a complete application is one where all the required documentation and information has been submitted.

(5) Where more than one application is submitted in respect of a fishing vessel, the Director may only consider the first complete application that the Director received during the application period.

6. Fishing licences

(1) The Director may only grant a fishing licence for the whole period of the fishery.

(2) The Director must determine an application for a fishing licence in accordance with the Licence Allocation Policy.

(3) In assessing each application, the Director must take account of information provided by the applicant and any other information that is available to the Director about the applicant, the vessel, the master and the crew.

(4) The Director must give reasons for their decision to an applicant.

7. Fishing licence fees

The licence fee is determined by using the formula set out in Schedule 1.

8. Payment of licence fees

(1) Subject to subregulation (2), the licence fee must be paid no later than 12 January 2024.

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

(2) The Director may, in exceptional circumstances, accept payment of 10% of a licence fees by 12 January 2024, provided the balance of 90% is guaranteed by a letter of credit (or other equivalent security for payment is provided, as approved by the Director).

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

(3) A letter of credit under subregulation (2) must have an expiry date of 31 August 2024.

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

(4) If payment is not received by 31 May 2024, the Director may call for payment under the letter of credit.

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

9. Prompt payment discount

A discount of 4% of a licence fee must be given to a licensee who intends to pay and pays the full licence fee on or before 12 January 2024 in accordance with regulation 8(1).

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

10. Loyalty discount

(1) The Director may give a licensee a discount per vessel for each year in which the vessel has fished in the fishery in the past ten years (“**the loyalty discount**”) at the rates set out in subregulation (2).

(2) A licensee is eligible for —

(a) a discount at the rate of 1% per year up to a maximum of 10% if the vessel holds either an International Fishing Vessel Safety Certificate or an equivalent certificate or statement of compliance from either the flag state or a class society, which is accepted by the Director in accordance with subregulation (3);

(b) a discount at the rate of 0.5% per year up to a maximum of 5%, in respect of a vessel that does not meet the requirements under paragraph (a).

(3) For purposes of subregulation (2)(a), where a fishing vessel is not registered under the flag of a country which is a party to the Torremolinos Convention, the Director may accept in their discretion a certificate of compliance equivalent to the International Fishing Vessel Safety Certificate issued by the vessel’s flag state or a class society.

(4) Where a licensee replaces a fishing vessel in the fishery (“**the old vessel**”) with a new one (“**the new vessel**”), and the new vessel is the only one owned by that licensee, then any loyalty discount that applied to the old vessel is transferred to the new vessel.

(5) Where a licensee adds a new vessel and the licensee owns more than one vessel (old vessels) in the fishery, the loyalty discount attaching to each fishing vessel is the combined loyalty discount for all the old vessels divided by the total number of old vessels in the fleet (for example, a licensee owns 3 vessels which have each, a loyalty discount of 3%, 5%, and 4% = 12% total, divided by 3 = 4%. So the 3 vessels including the new vessel would each have a discount of 4%).

11. Refund of licence fees

(1) The Director, in consultation with the Financial Secretary, may refund a portion of fishing licence fees in accordance with Schedule 2.

(2) A refund is payable as provided in column B of the table set out in Schedule 2 if the average catch is less than 1000 tonnes, and after taking into account the catch value, the adjusted catch is less than 1500 tonnes.

PART 3 - TRANS-SHIPMENT AND EXPORT

12. Application of this Part

This Part applies to trans-shipment and export licences.

13. Trans-shipment and export licences

- (1) A licence for trans-shipment or export issued under section 46 of the Ordinance is valid for such period or periods as are stated in it, and the period or periods of validity may be extended by the Director.
- (2) A licence is valid only in respect of trans-shipment in such ports or harbours in the Falkland Islands as are stated in the licence.
- (3) A licence may be stated to be valid only for so long as the vessel to which it relates remains continuously in the port or harbour stated in the licence.
- (4) An export licence is not required for the export of fish packed in a shipping container.

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

14. Trans-shipment and export licence fees

- (1) No fee is payable in respect of a trans-shipment or export licence if the licence is issued only in respect of any of the following matters —
 - (a) trans-shipment or export by a fishing vessel holding a fishing licence which permits the vessel to fish in the fishing waters at the time of the trans-shipment;
 - (aa) if a fishing licence in respect of a fishing vessel for a fishing season has been offered by the Director but not yet granted, trans-shipment or export by that vessel before the start of that season;
 - (b) trans-shipment or export by a Falkland Islands fishing vessel; or
 - (c) trans-shipment by a vessel at FIPASS, provided that the trans-shipment involves cargo crossing the dock.

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

- (2) The owner, charterer or operator of a vessel not exempted under subregulation (1) must pay a fee of £1,925 in respect of a licence issued under section 46 of the Ordinance.

PART 4 - SCIENTIFIC PERMITS

15. Application of this Part

This Part applies to scientific permits.

16. Scientific permits

- (1) The Director may issue such number of scientific permits within the meaning of section 42 of the Ordinance as may be appropriate to verify the presence of valid species of a fishery in the fishing waters or any part of them.
- (2) The Director must specify in each scientific permit the fishery and the expiry date for that permit.

(3) The fee payable for a scientific permit is the fee as the Director may determine in each case.

SCHEDULE 1 - FISHING LICENCE FEES

(regulation 7)

Fee Formula

Jigging Vessels:

$$\text{Fee (£)} = \mathbf{£0.486 * (GT*(S+1.5D)) + 130064}$$

GT = Gross Tonnage

S = Number of Single Jigging Machines

D = Number of Double Jigging Machines

Trawling Vessels:

$$\text{Fee (£)} = \mathbf{(4.928*GT) + 141454}$$

GT = Gross Tonnage

SCHEDULE 2 - FISHING LICENCE FEES REFUND POLICY

[S.R. & O. 9/2023/w.e.f. 03/11/2023]

(regulation 11)

1. General principles

A refund —

- (a) is paid in the event of a poor season (a poor season is a season where the actual catch is less than 1000 tonnes or where the adjusted catch is less than 1500 tonnes);
- (b) is assessed by taking into account the average catch (arrived at by calculating the whole catch in a season, divided by the total number of vessels fishing in that season);
- (c) will be based on actual catch using volume and value; and
- (d) is paid in accordance with the following table.

Catch (MT)	Column A Percentage Refund based on catch volume only. For use where average catch ≥ 1000 tonnes	Column B Percentage Refund using catch volume and value. For use where average catch < 1000 tonnes
> 1500	No refund	0%
1500 – 1250	No refund	10%
1249 – 1000	No refund	25%
999 – 750		40%
749 – 500		50%
499 – 250		70%
< 250		90%

2. Catch Value

A refund is to be calculated by reference to the average catch and catch value. The base price used to calculate the figures in the table in paragraph 1 is \$936 per tonne (whole *illex argentinus* (*illex*). If the 2023 *illex* price is higher than the current base rate this will be factored into the refund calculation. In any case where the average *illex* price is above \$936 the calculation will be as follows:

*(Average Price \$ / \$ 936) * Average Catch = Revised average catch for refund.*

For example if the 2023 *illex* price is \$3000 and the average catch is 400 tonnes the calculation will be:

$$(\$3000 / \$936) = 3.2$$

*Average catch (400 tonnes) * 3.2 = 1280 tonnes (This is the adjusted catch figure used for the refund calculation in column B of the table above).*

The adjustment will only be made if the price is above \$936. Price information will be collected from available sources.

3. Full Season equivalent catch

The catch total used for a refund will take account of the full season catch (1 February – 15 June). If the average catch of vessels fishing for 100% of the season exceeds 1000 tonnes there will be no refund for any vessel.

4. High Seas Catches

The calculation of catch rates and totals in relation to a refund will take account of high seas catches taken by licensed vessels during 1 February – 15 June. Owners/operators of licensed vessels wishing to access a refund must provide catch reports for any days spent fishing on the high seas during the period of validity of their Falkland Islands fishing licence.

5. Monitoring of Catch Levels

The Director will be the ultimate arbiter of catch levels and reserves the right to weight the assessment in favour of verified information. To give effect to this paragraph, vessels may need to undergo additional inspections.

Any refund will be calculated on the basis of average vessel catch and not on an individual vessel basis.

Subject to paragraph 6, a refund will only apply to vessels which comply with the requirements of catch monitoring which are covered by mandatory requirements in the Ordinance such as —

- (a) full and reliable catch reporting;
- (b) other fishery monitoring reports (Fishcom/end Trans-shipment logs);
- (c) embarkation of an observer if required; and
- (d) sufficient notice of intention to leave fishing zones to allow for inspection.

6. Eligibility to claim a refund

Subject to this paragraph, a refund may only be paid in respect of fishing vessels which report high seas catches during the fishing season (1 February – 15 June) and conduct trans-shipment operations in Falkland Islands ports and harbours.

Vessels which do not satisfy the criteria set out in this paragraph will not ordinarily be eligible for a refund.

In exceptional circumstances, if it is determined that a vessel which has not complied should receive a refund, that refund will be at a reduced rate, to be determined by the Director according to the circumstances.