



**REPUBLIC OF KIRIBATI**  
**FISHERIES ACT 2010**  
**(No. 6 of 2010)**

**FISHERIES (FISH AGGREGATING DEVICE MANAGEMENT) REGULATIONS**  
**2014**

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In exercise of the powers conferred by section 45 of the Fisheries Act 2010, the Beretitenti acting in accordance with the advice of the Cabinet, hereby makes the following Regulations:-

**PART 1**

**PRELIMINARY**

**Short title and commencement**

1. These Regulations may be cited as the Fisheries (Fish Aggregating Device Management) Regulations 2014 and shall come into force on the date of its publication.

**Interpretation**

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

“**Act**” refers to the Fisheries Act 2010;

“**anchored fish aggregating device**” or “**AFAD**” means a fish aggregating device that is anchored to the seabed in any way;

“**Commission**” means the Western and Central Pacific Fisheries Commission established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean;

“**deployment**” means the introduction into the sea of a FAD or associated electronic equipment;

**“drifting fish aggregating device”** or **“DFAD”** means a fish aggregating device that is designed to drift;

**“electronic equipment”** means any device or system that can be used by a vessel to locate, track or otherwise monitor fish, fishing or related activity and includes but is not limited to—

- (a) a video camera;
- (b) equipment associated with a Fish Aggregating Device;
- (c) radar;
- (d) satellite;
- (e) a fish finder;
- (f) beacon; or
- (g) a buoy.

**“exclusive economic zone”** or **“EEZ”** has the same as meaning as denoted in the *Maritime Zones (Declaration) Act 2011*;

**“fish aggregating device”** or **“FAD”** has the same meaning as denoted in the Act;

**“fishing”** has the same meaning as denoted in the Act;

**“Kiribati waters”** has the same meaning as denoted in the Act;

**“Minister”** means the Minister responsible for fisheries;

**“Nauru Agreement”** means the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest;

**“operator”** has the same meaning as denoted in the Act;

**“prohibition period”** means the period of time stipulated in Part 4 of these Regulations;

**“related activity”** has the same meaning as denoted in the Act;

**“retrieval”** or **“retrieved”** in relation to fish aggregating devices or associated electronic equipment means the collection or removal from the water of any fish aggregating device or associated electronic equipment by a vessel;

**“servicing”** means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of fish aggregating devices or associated electronic equipment;

**“Third Implementing Arrangement”** means the Third Arrangement Implementing the Nauru Agreement Setting Forth Additional Terms and Conditions of Access to the Fisheries Zones of the Parties, done at Koror, Republic of Palau on 16 May 2008.

## **PART 2 GENERAL**

### **Requirements part of conditions**

3. (1) No fishing licence or authorisation issued pursuant to the Act shall be valid unless the additional conditions prescribed in these Regulations are imposed by the Director of Fisheries and complied with by the master, owner, operator or charterer as the case may be.

(2) The master, owner, operator or charterer of a purse seine fishing vessel that uses such vessel to contravene these Regulations commits an offence.

### **Register of FADs and electronic equipment**

4. (1) The Director of Fisheries shall establish and maintain a Register of FADs and electronic equipment.

(2) A person that owns or operates a fish aggregating device or electronic equipment associated with such device shall apply to the Director of Fisheries to register every such device, and shall renew the registration annually.

(3) Registration is subject to:

- (i) payment of a registration fee for each FAD;
- (ii) compliance with the conditions of registration;
- (iii) compliance with the Act and these Regulations..

- (4) The Director of Fisheries may cancel the registration of a FAD or electronic equipment if the master or operator of a purse seine fishing vessel is convicted of a serious offence under the Act.
- (5) A person that owns or operates a FAD or electronic equipment that is not registered on the Register of FADs and electronic equipment or who fails to comply with the conditions of registration commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

### **FAD Logbooks**

5. (1) The master or operator of a purse seine fishing vessel shall keep and maintain a logbook of FADs in the English language. The FAD logbook shall contain information on each FAD deployed, retrieved or serviced by the vessel including the respective electronic equipment associated with the FAD and location coordinates by date.

(2) A person that owns or operates a fish aggregating device shall submit a true and accurate copy of the FAD logbook to the Director of Fisheries no later than the first day of each month.

(3) The owner, master or operator of a purse seine fishing vessel that fails to keep an maintain a FAD logbook in the English language, or who fails to submit a copy of the FAD logbook commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

### **Reporting**

6. (1) The master or operator of a foreign purse seine fishing vessel shall provide the following information to the Director of Fisheries no later than the first day of each month:
- (i) location coordinates for the deployment of each FAD in Kiribati waters;
  - (ii) location coordinates for the retrieval of each FAD in Kiribati waters;
  - (iii) location coordinates for the servicing of each FAD in Kiribati waters;
  - (iv) details of the electronic equipment associated with each FAD including the placement, retrieval and servicing of such equipment;
  - (v) details of any lost FAD.

(2) The master or operator of a purse seine fishing vessel registered in Kiribati shall provide the following information to the Director of Fisheries no later than the first day of each month:

- (i) location coordinates for the deployment of each FAD in Kiribati waters or beyond such waters;
- (ii) location coordinates for the retrieval of each FAD in Kiribati waters or beyond such waters;
- (iii) location coordinates for the servicing of each FAD in Kiribati waters or beyond such waters;
- (iv) details of the electronic equipment associated with each FAD including the placement, retrieval and servicing of such equipment in Kiribati waters or beyond such waters;
- (v) details of any lost FAD including an AFAD;
- (vi) details of any FAD replacement.

(3) The owner, master or operator of a foreign purse seine fishing vessel that fails to comply with a reporting requirement in this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(4) The owner, master or operator of a local purse seine fishing vessel that fails to comply with a reporting requirement in this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

#### **Requirement for reporting of certain activities**

7. (1) The master or operator of a foreign purse seine fishing vessel shall provide a written report to the Director of Fisheries at least 24 hours in advance for the following activities in Kiribati waters:

- (i) deployment of a FAD;
- (ii) retrieval of a FAD;
- (iii) servicing of a FAD;
- (iv) replacement of a FAD;
- (v) placement, retrieval and servicing of electronic equipment associated with a FAD.

(2) The master or operator of a purse seine fishing vessel registered in Kiribati shall provide a written report to the Director of Fisheries at least 24 hours in advance for the following activities in Kiribati waters or on the high seas:

- (i) deployment of a FAD;
- (ii) retrieval of a FAD;
- (iii) servicing of a FAD;
- (iv) replacement of a FAD;
- (v) placement, retrieval and servicing of electronic equipment associated with a FAD.

(3) The owner, master or operator of a foreign purse seine fishing vessel that undertakes any activity in sub Regulation (1) without reporting, or who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(4) The owner, master or operator of a local purse seine fishing vessel that undertakes any activity in sub Regulation (2) without reporting, or who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

#### **Marking of FAD**

8. (1) The owner, master or operator of a purse seine fishing vessel fishing in Kiribati waters and a purse seine fishing vessel registered in Kiribati and fishing on the high seas shall mark each FAD in accordance with these Regulations.

(2) The Director of Fisheries, in consultation with the Minister, may assign a FAD number comprising of letters and numbers on receipt of an application from the owner or operator of a purse seine fishing vessel, or the owner or operator of a FAD. The first three letters shall represent the first three letters of the vessel name followed by a two digit number, ordered sequentially accordingly to the number of FADs to be deployed, followed by letters to represent the maritime zone where such FAD is to be deployed.

(3) A drifting FAD deployed by a purse seine fishing vessel registered in Kiribati or licensed under the Act must be clearly marked with the:

- (a) name of deploying vessel;
- (b) date of deployment of the FAD; and

(c) the FAD number assigned in accordance with these regulations.

(4) An anchored FAD deployed between 24 and 45 nautical miles measured from the baseline of Kiribati must be clearly marked with the:

- (a) name of deploying vessel;
- (b) date of deployment of the FAD; and
- (c) the FAD number assigned in accordance with these regulations.

(5) The markings required under these Regulations must be written with a waterproof marker or paint and contained on a detachable plate. The markings must be in lettering of at least 30 cm high and of a colour that contrasts well with the colour of the plate and such plate must be attached to a point on the FAD where it is clearly visible from above.

(6) The owner, master or operator of a foreign fishing vessel who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(7) The owner, master or operator of a local purse seine fishing vessel, or the owner or operator of an anchored FAD, who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

#### **Marking of electronic equipment**

9. (1) The owner, master or operator of a purse seine fishing vessel fishing in Kiribati waters and a purse seine fishing vessel registered in Kiribati and fishing on the high seas shall mark each electronic equipment associated with a FAD in accordance with these Regulations.

(2) The Director of Fisheries, in consultation with the Minister, may assign a electronic equipment number comprising of letters and numbers on receipt of an application from the owner or operator of a purse seine fishing vessel. The first three letters shall represent the first three letters of the vessel name followed by a two digit number, ordered sequentially accordingly to the number of electronic equipment for deployment, followed by letters to represent the maritime zone where such equipment is to be deployed.

(3) Each electronic equipment deployed by a purse seine fishing vessel licensed under the Act or registered in Kiribati must be clearly marked with the:

- (a) name of the deploying vessel;
- (b) date of deployment of the equipment; and
- (c) the electronic equipment number assigned in accordance with these regulations.

(4) The markings required under these Regulations must be written with a waterproof marker or paint and contained on a detachable plate. The markings must be in lettering of at least 10 centimetres in height and of a colour that contrasts well with the colour of the plate and such plate must be attached to a point on the electronic equipment where it is clearly visible from above.

(5) The owner, master or operator of a foreign fishing vessel who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(6) The owner, master or operator of a local purse seine fishing vessel who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

#### **Destroying or tampering prohibited**

10. (1) No person shall destroy or tamper with the markings of a FAD or any electronic equipment associated with a FAD or otherwise interfere with such markings.

(2) A person who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

### **PART 3**

#### **FAD MANAGEMENT PLAN**

##### **FAD Management Plan**

11. (1) The Director of Fisheries shall prepare, and review as necessary, a FAD management plan in accordance with sections 5 and 6 of the Act.

(2) Notwithstanding section 6(2) of the Act, a FAD management plan must:

- (a) identify the characteristics of the FAD fishery and the differences, if any, by fishing fleets;
- (b) specify the objectives to be achieved in the management of the fishery;
- (c) specify the management and development strategies to be adopted for the fishery;
- (d) provide for the regulation of the FAD fishery, including specific requirements for the registration and marking of FADs, whether anchored or drifting;
- (e) specify the requirements to be imposed on foreign purse seine vessels licensed under the Act and the requirements to be imposed on purse seine vessels registered in Kiribati;
- (f) specify the information and other data required to be provided by persons owning or operating FADs;
- (g) specify the measures that have a legally binding effect on persons owning or operating FADs; and
- (h) take into account the interests of artisanal and small scale fishing on FADs in Kiribati waters.

**Compliance with measures in FAD Management Plan**

12. (1) An owner, master or operator of a purse seine vessel licensed in Kiribati or registered in Kiribati shall comply with the legally binding measures explicitly identified in a FAD management plan.

(2) A person who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

**PART 4**  
**FAD PROHIBITIONS**

**Use of Fish Aggregating Devices Prohibited**

13. (1) The deployment or servicing of a fish aggregating device or any associated electronic equipment within Kiribati waters is prohibited during the period of time identified in these Regulations for specific areas within Kiribati waters.

(2) A fish aggregating device or associated electronic equipment shall not be retrieved by a vessel licensed to fish pursuant to the Act during the prohibition period unless: —

(a) the fish aggregating device or associated electronic equipment are retrieved and kept on board the vessel until landed or until the end of the prohibition; and

(b) the vessel does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval.

(3) The Minister may by Order, exempt all or part of the exclusive economic zone or any vessel from the conditions prescribed in Sub-Regulations (1) and (2) of this Regulation and Regulation 14 if: —

(a) the Minister determines that a disproportionate burden will be suffered from application of the condition; and

(b) a management plan prepared pursuant to sections 5 and 6 of the Act provides alternative mechanisms for the reduction of fishing on FADs by domestic vessels highly dependent on fishing on FADs.

(4) The owner or operator of a purse seine fishing vessel registered in Kiribati that is highly dependent on fishing on FADs may apply to the Director of Fisheries for an exemption under this Regulation and such exemption may be granted upon:

(a) payment of approved fees;

(b) compliance with the Act and these Regulations;

(c) provision of information on landings in Kiribati;

(d) provision of information on on-shore processing; and

(e) provision of information on other domestic development.

(5) Subject to sub-Regulation (3), no purse seine fishing vessel shall conduct any set during the prohibition period within one (1) nautical mile of a FAD or of a point where a FAD has been retrieved by another vessel in the preceding twenty four (24) hours.

(5) The owner, master or operator of a vessel shall not allow the vessel or any other craft or object to be used to aggregate fish in a prohibited area or period.

(6) Any person who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$8,000.

#### **Fish Aggregating Devices Area restrictions**

14. (1) Except where granted an exemption under Regulation 13, a purse seine fishing vessel, including vessels flying the Kiribati Flag that are registered in Kiribati and local fishing vessels, and licensed under the Act to fish in the exclusive economic zone of the Gilbert Group, the Phoenix Group and the Line Group shall not deploy or retrieve any FAD or associated equipment during the months of **July, August and September** each year.

(2) The prohibition of setting of FADs referred to in Sub-Regulation 1 shall be extended for an additional month, for a total of 4 months in **July, August, September, and October** for licensed local fishing vessels newly introduced after January 1 2010 and has no historical catch data for a period of three years, except where an exemption under Regulation 13 is granted.

(3) The owner, master or operator of a purse seine fishing vessel registered in Kiribati who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

#### **FAD Reporting**

15. (1) The owner, master or operator of a purse seine fishing vessel registered in Kiribati, while fishing in the WCPFC Convention Area, must provide to the Director of Fisheries on a weekly basis, except in the months of July, August and September each year, the following information:

- (a) Number of FAD sets made during that week;
- (b) Number of total sets made during that week;
- (c) Estimated Bigeye catch in metric tonnes caught during that week;

(d) Any other information required by the Director of Fisheries.

(2) The Director of Fisheries shall provide information on FAD fishing of purse seine vessels registered in Kiribati to the Executive Director of the Commission on a monthly, weekly or daily basis in accordance with the relevant conservation and management measure of the Commission.

(3) The Director of Fisheries, in consultation with the Minister, shall close FAD fishing to all purse seine vessels registered in Kiribati and fishing on tuna in the high seas, when set limits exceeds the national limit identified in the relevant conservation and management measure of the Commission.

## **PART 5**

### **CATCH RETENTION AND MONITORING**

#### **Catch to be retained**

16. (1) All bigeye, skipjack and yellowfin tuna taken by any purse seine vessel licensed to fish pursuant to the Act shall be retained on board and then landed or transhipped, except where such fish is transferred through net sharing or in accordance with the exceptions identified in this Regulation.

(2) Where the operator of a purse seine vessel licensed pursuant to the Act determines that bigeye, skipjack and yellowfin tuna should not be retained on board for reasons related to the size, marketability, or species composition, the said fish shall only be released before the net is fully pursed and one half of the net has been retrieved.

(3) Subject to sub-Regulations (4), (5) and (6), the requirement specified in sub-Regulations (1) and (2) shall not apply to:

(1) fish clearly and demonstrably unfit for human consumption; and

(2) fish caught during the final set of a trip when there may be insufficient space to accommodate all fish caught in that set.

(4) For the purposes of sub-Regulation (3)(1), fish clearly and demonstrably unfit for human consumption:

(a) includes, but is not limited to, fish that:

- i. is meshed or crushed in the purse seine net; or
- ii. is damaged due to shark or whale depredation; or
- iii. has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and

(b) does not include fish that:

- i. is considered undesirable in terms of size, marketability, or species composition; or
- ii. is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.

(5) Where the operator of a purse seine fishing vessel licensed under the Act determines that fish is clearly and demonstrably unfit for human consumption in accordance with sub-Regulation (4), the said fish shall not be discarded from the vessel until after an observer has estimated the species composition of the fish to be discarded.

(6) For the purposes of sub-Regulation (3)2, any excess fish that cannot be accommodated in the fishing vessel may only be discarded if:

- (a) the vessel master and crew attempt to release the fish alive as soon as possible;
- (b) an observer has estimated the species composition of the fish to be discarded; and
- (c) no further fishing is undertaken after the discard until the fish on board the vessel has been landed, transshipped, or otherwise transferred to another vessel through net sharing on the final set.

(7) The operator of the vessel shall submit a discard report in the format set out in Schedule 1 of these Regulations to the Director of Fisheries within 48 hours after any discard.

#### **Requirement for Use of Observers**

17. (1) A purse seine fishing vessel registered in Kiribati and a foreign purse seine fishing vessel licensed pursuant to the Act shall carry at all times an observer from either the national observer programme of Kiribati or an existing sub-regional observer programme in accordance with all requirements of such observer programmes.

(2) The owner, master or operator of a purse seine vessel who fails to comply with this Regulation commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

#### **Mobile Transceiver Unit Required**

18. (1) The master, owner, operator, or charterer, of a purse seine fishing vessel licensed under the Act must install on the vessel, an approved mobile transceiver unit in accordance with the specifications and procedures required by the Director of Fisheries and that the said unit must be switched on and operating properly at all times during the period of validity of the licence.

(2) The owner, master, operator or charterer of a purse seine vessel who fails to comply with this Regulation commits an offence and shall be liable to the penalty prescribed in the Act.

### **PART 6**

#### **MISCELLANEOUS**

##### **General offences and penalty**

19.- (1) A person who commits an offence against these Regulations for which no other penalty is provided is liable for a penalty—

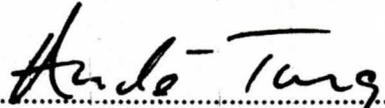
- (a) in the case of a natural person – a fine not exceeding \$5,000; and
- (b) in the case of a corporation – a fine not exceeding \$10,000.

(2) Where the offence is a continuing one, a person shall be liable to a further fine not exceeding \$1,000 for every day that the offence has continued.

**Penalty notice offence**

20. A penalty notice may be served for an offence against these Regulations pursuant to the requirements set out in section 41 of the Act.

Dated this <sup>1<sup>st</sup></sup>.....day of.....*July*..... 2014.



**H.E. ANOTE TONG  
BERETITENTI**

Published by exhibition at the Public Office of the Beretitenti this <sup>1<sup>st</sup></sup>..... day of  
*July*..... 2014.



**Secretary to the Cabinet**

**SCHEDULE 1**

**DISCARD REPORTING FORM**

**(Regulation 17)**

Name of Vessel	
Flag of Vessel	
International Radio Call Sign	
Vessel WCPFC Identification No.	
Name and nationality of master	
Licence number	
Name of observer on board	
Date, time and location (latitude/longitude) of discard	
Date, time, location (latitude/longitude) and type of the shot (drifting FAD, anchored FAD, free school, etc)	
Reason that fish were discarded (including statement of retrieval status if fish were discarded according to these Regulations)	