

# **Marshall Islands Fisheries Regulations 1998**

## **LAW OF THE REPUBLIC OF THE MARSHALL ISLANDS**

### **MARSHALL ISLANDS FISHERIES REGULATIONS, 1998**

#### **REGULATIONS GOVERNING MARINE RESOURCES UNDER THE MARINE RESOURCE ACT, 1997**

### **PART I - PRELIMINARY**

#### **1. Short title.**

These regulations may be cited as the Marshall Islands Fisheries Regulations, 1998 ("Regulations").

#### **2. Authority and entry into force.**

(1) The authority for making these regulations is derived from the Marine Resources Act, 1997.

(2) These regulations supersede all previous regulations promulgated under the Marine Resources Act 1987, and repeal the Regulations Governing Cash Rewards as Incentives for Reporting Information Leading to the Conviction of Violators of the Marshall Islands Marine Resources Act, 1992.

(3) These regulations have the force and effect of law, and form an integral part of the Marine Resources Act, 1997.

(4) These regulations shall enter into force one day after their approval by the Board.

#### **3. Interpretation.**

The terms and phrases used herein have the meaning assigned to them under the Marine Resources Act, 1997, and unless the context otherwise requires:

"Act" means the Marine Resources Act, 1997 and these Regulations:

"Agree Reporting Area" includes:

- (a) the fishery Waters;
- (b) the high seas adjacent to the Fishery Waters; and

(c) the exclusive economic or fisheries zones of parties to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest of 1982 and the high seas adjacent to such zones where fishing was conducted during any fishing trip which includes the Fishery Water;

"Container System Unit" means a container designed for repeating use a unit of transporting equipment in a system of cargo transport which uses those units for containing goods for transport:

"fishing storage facility" means premises other than premises used for general retail sale of food, which are used for commercial storage, processing or sale of fish, or any combination of these, authorized by a fish export facility license under Regulation \*\*;

"good standing" refers to the good standing of a vessel on the Regional Register of Foreign Fishing Vessels administered by the South Pacific Forum Fishing Agency;

"licensing officer" means a person employed by the Authority who reports to the Director and is charged with responsibilities relating to licensing operations;

"marine scientific research" excludes trial fishing, and does not include operation involving commercial sale of fish taken;

"substantially chartered", in relation to a foreign vessel, means chartered under a contract of hire or charter agreement whereby a substantial measure of control over the master, the crew and the operations of the vessel, other than only being liable for the payment of wages, is vest in the hirer;

"support craft" means a dinghy, tender or other craft used in conjunction with a fishing vessel in support of its fishing operations, or in conjunction with a aquaculture unit;

"trail fishing" has the same meaning as "commercial pilot fishing" in the Act;

"vessel monitoring system" means the satellite based reporting system approved by the Director or the South Pacific Forum Fisheries Agency that is capable of monitoring fishing and related activities of fishing vessels including, but not limited to, the determination of vessel's identity, GPS position, course and speed, and special codes.

## **Part II - Licensing**

### **4. Activities requiring a license, authorization or certification.**

(1) For the purposes of the Act:

(a) subject to Subsection (2), any foreign or domestic-based vessel which is used in the Fishery Waters;

(i) for fishing;

(ii) for related activities, unless otherwise provided in this Act;

(iii) for the commercial buying, storage or processing of fish;

shall require a fishing vessel license in accordance with Section 66 of the Act or as may otherwise be provided under an applicable multilateral access agreement or fisheries management agreement;

(b) any vessel used for transshipment shall require authorized by the Director in accordance with Section 63 of the Act;

(c) any vessel used for trail fishing shall require a license issued under Regulation\*\*;

(d) any vessel used for the capture of lice fish for export purposes shall require a license issued under Regulation \*\*;

(e) premises which are used exclusively or predominantly for the commercial storage, processing or packaging of fish for export shall require such license as may be require by the Authority in accordance with Regulation \*\*;

(f) any vessel used for marine scientific research shall require a license under section 75 of the Act;

(g) any aquaculture operation, in fisheries waters or on land, shall require such as may be required by the Authority in accordance with Regulation \*\*;

(h) any fish ...

(2) Notwithstanding Subsection (1), a license is not required for:

(a) a support craft used in conjunction with a fishing vessel, which is included in the fishing license; and

(b) unless the terms of an aquaculture license require it, a support craft used solely or mainly in conjunction with an aquaculture unit.

(3) Any vessel owned or controlled by any non-citizen, which is register in the Republic of Marshall Islands, may be required to hold such license as the Authority may require, taking into account its obligations pursuant to any access agreement or fisheries management agreement.

(4) A license may be required for any fishing vessels owned or controlled by citizen which is used for fishing on the high seas in accordance with a fisheries management or other agreement.

## **5. Fishing vessel licenses.**

(1) Fishing vessel license may be issued in accordance with this Act in respect of fishing vessels, locally based foreign fishing vessels and foreign fishing vessels.

(2) A fishing vessel license issued in accordance with this Act shall be subject to such terms and conditions as are specified in Section 60 of this Act to minimum terms under an access agreement and:

(a) shall be issued for a specified species of fish;

- (b) may be issued for a specified area of fisheries waters;
- (c) shall specify which types of fishing and related activities are permitted under the license;
- (d) may specify a port or ports at which the vessel may transship, off-load, refuel or reprovision;
- (e) may specify such further conditions in relation to any fishing permitted under the license, including applicable conditions in relation to total allowable catch, as the Director of Board deems necessary or desirable;
- (f) may specify the number of citizens who are to be employed as crew aboard the vessel during the license period;
- (g) may require that a specified type of transponder or other equipment of a vessel monitoring system be installed on the vessel and fully operational at all times during the license period, and further require full responsibility for the operational, maintenance and administrative costs and full cooperation with the Authority in its operation;
- (h) shall, if a transponder is required, include the vessel's VMS Inmarsat Mobile Number (INM) and the number of other communication devices as may be on board;
- (i) shall be endorsed in respect of any support craft carried on board and any aircraft used for any fishing operation;
- (j) may require the placement of observers in accordance with Section 86 of the Act or such scientist and technician as may be required by the Director to be on the vessel for scientific purposes;
- (k) may require that the fishing vessel is seaworthy and contains adequate life safety equipment or survival gear for each passenger and crew member; and
- (l) shall be subject to such further terms and conditions as are specified in it in accordance with this Act.

## **6. Transshipment.**

- (1) No person shall engage in transshipment without:
  - (a) prior authorization in writing from the Director in accordance with Section 63 of the Act or such other license or permission as the Authority may require from time to time;
  - (b) payment of such fee as may be required; and
  - (c) the presence of such observer or other person as the Director may require, who shall have all necessary powers under this Act to obtain information and take such evidence and samples as he may require in carrying out his duties.

## **7. Trail fishing license.**

- (1) A trail fishing license shall be issued by the Director and shall:
  - (a) be issued for a specified area of fisheries waters;

- (b) specify the species of fish to be targeted for trail fishing and research purposes;
- (c) specify the period of validity;
- (d) not be renewable;
- (e) specify the fishing method and gear and sampling strategy to be used;
- (f) specified prohibited fishing methods, which shall include poisons or explosives of any kind in contravention of Section 32 of the Act;
- (g) specify the time within which the exploratory report, including all raw data, is to be presented to the Authority; and
- (h) be subject to such further terms and conditions as are specified in it;
- (i) be subject to such further terms and conditions as are specified in it.

(2) The period of validity of a trail fishing license shall be as specified in the license, but in any case shall not exceed on year.

(3) A vessel the subject of a trail fishing license shall, when required by the Authority, carry an observer on board at all times during fishing, and carry scientist or technicians or such other person the Authority necessary for evaluation of the fishery that is subject to the trail.

(4) Any person or entity undertaking research in the fisheries waters under a trial fishing license shall:

(a) submit such information to the Director as may requested or as may be prescribed, including a copy of all records and reports of activities of the vessel in the fisheries waters, and a final report including full conclusions upon completion of the research; and

(b) be accompanied by the train such observer, fisheries officer or other person or persons the Director may assign during the research at no expense to the Authority.

(5) Unless the terms of the license specify otherwise, the conditions and restrictions applicable to licensed vessels under this Part shall apply to a trial fishing vessel as if it were a licensed vessel.

(6) A trial fishing license may be held concurrently with any other fishing license.

### **8. Live fish capture license.**

No person shall capture or export live fish unless a live fish capture license has been issued in respect of the capture of such fish.

(2) A live fish capture license issued in accordance with this Act shall specify the permitted method of capture, species and locations of capture, and may specify management measures such as the total allowable catch or minimum size.

(3) The Director shall advise any Local Government Council if such a license is issued by the

Authority within the waters over which the Council's legal system extends.

(4) Subject to preparation an implementation of a fishery management plan in accordance with Part IV of the Act, a Local Government Council may issued a live fish capture license for waters over which its legal system extends in accordance with such pain.

(5) Notwithstanding Subsection (4), the Authority close down any fishery for the capture and export of live for conservation purposes, and any licenses issued for such fishery shall be deemed suspended for the duration of such closure.

### **9. Fish Export Facility Licenses.**

(1) Premises used for the commercial storage, processing or packaging of fish for export, shall require such license as a fish export facility as the Board may direct.

(2) The owner or occupier of premises referred to in Subjection (1) may apply for a fish export facility license in respect of such premises.

(3) A license issued under this Regulation:

- (a) shall specify the premises to which it relates;
- (b) shall be issued for specified species of fish;
- (c) shall specify the manner of any storing;
- (d) shall specify the method of any processing;
- (e) shall specify the method of packaging;
- (f) shall specify the manner of record keeping and reporting for the purposes of export;
- (g) may specify the persons from whom and the conditions under which the holder of a fish factory license may purchase unprocessed fish or a person may sell unprocessed fish;
- (h) may specify other matters in relation to any storing, processing packaging and exporting;
- (i) shall be subject to the condition that all fish processed in the facility shall be exported in accordance with these Regulations;
- (j) may be subject to such further terms and conditions as are required by this Act and as may be specified in it.

(4) A fish export facility license shall not be granted in respect of a facility intended for the preparation, processing or storage of fish for human consumption unless, in the opinion of the Authority on the recommendation of the authorities having responsibility for health and environment for the government of the Republic of the Marshall Islands, the facility is capable of such preparation, processing or storage to internationally acceptable standards for the fish for which the license is being sought.

(5) It shall be a condition of any fish export facility license that:

(a) any fish export facility in which fish intended for human consumption is prepared, processed or storage shall:

(i) comply with any law relating to food for human consumption;

(ii) be constructed so as to be capable of being maintained, and be maintained, in a clean and hygienic condition; and

(iii) be equipped only with equipment and fitting which are capable of being sterilized and are maintained in a clean and hygienic condition,

(b) freezing or chilling of fish shall be carried out as rapidly as possible and in such a way as to minimize undesirable physical, biochemical and microbiological changes, and in accordance with any law relating to food for human consumption, and

(b) an authorized officer may, at all reasonable times, enter the premises or facility, for the purpose of:

(i) inspection of the condition of the facility;

(ii) examination of any fish held in the facility; or

(iii) where he considers it necessary or desirable - taking samples for analysis of any fish in the facility.

(6) Where an authorized officer has reasonable grounds to believe that any fish for human consumption which he is inspecting does not comply with any condition of the license, the requirements of this Regulation or of any other law relating to food for human consumption or export, he may prohibit the further dealing with consignment to which the fish belongs, or any part of the consignment, pending the results of analysis.

(7) Where there are reasonable grounds to believe that the condition of any facility does not comply with the any condition of the license, requirements of this Regulation or of any other law relating to food for human consumption or export, the license of such facility may be suspended pending the results of an investigation, and shall be suspended if there is proof that such requirements are not met.

## **10. Fish export certification.**

(1) No person shall export fish unless it has been certified for export in accordance with procedures required by the Authority.

(2) For the purposes of this Regulation, "export" has the same meaning as in the Act, and applies to fish which have been offloaded from a vessel and handled in any way, for purposes of quality control, and are exported by a company established in accordance with laws of the Republic of the Marshall Islands.

## **11. Aquaculture License**

(1) No person shall operate an aquaculture unit without such license as may be require by the Authority for that unit.

(2) An aquaculture license:

- (a) shall be issued for specified type, class or species of fish;
- (b) shall be issued in respect of a specified area of fisheries waters or a specified place.
- (c) may require a vessel used in conjunction with the aquaculture unit to be:
  - (i) licensed; or
  - (ii) subject to such terms and conditions as are specified in the aquaculture license;
- (d) may require reports to be made to the Authority in a form approved by the Director; and
- (e) shall be subject to such further terms and conditions as may be specified in it.

### **Part III - LICENSING PROCEDURES**

#### **12. License applications.**

(1) An application for a license pursuant to this Act shall be:

- (a) made in such form as may be approved from time to time by the Authority or required pursuant to an access agreement or a fisheries management agreement;
- (b) lodged with the Director;
- (c) accompanied by such application fee as may be required by the Authority, which shall be non-refundable.

(2) When the Director consider that:

- (a) an application has been made for an inappropriate class of license; or
- (b) there is insufficient evidence or information as may be appropriate.

#### **13. Fishing plans may be required for application.**

(1) The Director may require fishing plans to be attached to the application for a license, and shall require plans in respect of applications for licenses for aquaculture and mariculture, trail fishing and marine scientific research, including the information required in Section 76 of the Act.

#### **14. Consideration of license applications.**

(1) The Director shall, as soon as is practicable after the receipt of an application under Regulation 12, consider the application.



(2) The Director shall evaluate the license application taking into account:

- (a) any applicable national fisheries policy;
- (b) the provisions of any relevant fishery management plan drawn up under Section 25 or 48 or the Act;
- (c) any fishing plan that may have been required with the application pursuant to Regulation 13;
- (d) where the application related to a license to be issued under an access agreement, the terms of that agreement; and
- (e) any relevant measures of Local Government Council taken in accordance with Part IV of the Act.

(3) In evaluation a license application, the Director may consider:

- (a) whether the applicant and any other person involved in the operation which is the subject of the application have complied with:
  - (i) this Act, including the provision of catch data and the conservation and management of fisheries resources;
  - (ii) any access agreement or other international instrument to which Republic of Marshall Islands is party.
- (b) whether the applicant is applying pursuant to multilateral access agreement, fisheries management agreement or other international instrument to which Republic of Marshall Islands is party;
- (c) in relation to an enterprise which is not wholly owned and controlled by citizens:
  - (i) the level of citizen equity and the degree of control exercisable in law, by agreement or in practice by citizens in the enterprise;
  - (ii) the proposed cost and profit sharing arrangements in the enterprise;
  - (iii) any proposal for variation in (i) or (ii);
  - (iv) the proposed level of employment of citizens in the proposed operation (including crew members on any vessel involved in the proposed operation);
- (d) where the proposed operation involves fishing within the five mile zone of the territorial sea to which the legal system of a Local Government Council applies, any action taken by such Local Government Council consistent with Part IV of the Act, and the result of any consultation with appropriate members of such Council;
- (e) in relation to any vessel the subject of the application:
  - (i) its ownership and registration history;
  - (ii) the nature of any charter agreement, lease, mortgage or other financial arrangement in relation to it;
  - (iii) its proposed base port of operation; and

(iv) the history of good standing of the vessel.

(7) Where an application for a license is for an aquaculture license or fish export facility license, the Director may require the application to provide additional information on the potential impact of the operation on the environment and how this would be mitigated.

(8) The Director may, in considering a license application, request the applicant to provide such further information in relation to the application as he considers necessary.

### **15. Reconsideration of license applications.**

(1) Any person whose application for a license has been declined by the Director may seek a reconsideration by the Board.

(2) A request for reconsideration under this Regulation shall be made in writing to the Chairman of the Board, within 30 days of the date of the notification of the declining of the application.

(3) In the exercise of this power to reconsider, the Board shall seek a further report and recommendation from the Director covering all relevant matters and any other matters that the applicant may have raised in his request for reconsideration, and may:

(a) decline the request reconsideration;

(b) require the Director to grant the license; or

(c) permit the person to make a fresh application for a license notwithstanding that any time determined for making applications has expired, and the Director shall give effect to the Board's decision.

(4) The decision of the Board under this Regulation is final.

## **PART IV - LICENSE ISSUANCE, FEES OTHER PAYMENTS**

### **16. License issuance and fees.**

(1) Each license shall be issued by the Director in such form as may be approved by the Authority or as may be prescribed.

(2) No license shall be issued where any applicable access fee has not been paid.

(3) A license application fee and license fee shall be paid, as required by the Authority or as may be prescribed, upon application for and issuance of each license under this Act.

(4) Where the period of a license is renewable beyond one year, the annual license fee for that license is payable on or by date specified in the license or notified by the Authority, or where no

such date is specified or notified, annual from the date of issue of the license.

### **17. Performance bonds.**

(1) The Board may approve the class or classes of license or any vessel for which a performance bond may be required, and the amount or scale of amounts of bonds.

(2) A performance bond shall:

(a) be in the approved form, which may include a cash deposit, letter of credit or other form of guarantee;

(b) be lodged with a bank approved by the Director; and

(c) subject to Subsection (2), authorize the Authority to draw directly on the bond in the event of non-compliance with any term, condition or requirement of the license or of any provision of this Act.

(3) The Authority may draw directly on a bond only:

(a) in accordance with procedures under this Act; and

(b) to the extent of the approved scale of deductions for specified breaches of terms, conditions or requirements.

(4) Where the Authority has drawn on a bond in accordance with this Regulation, this holder of the license shall, within 30 days of being so notified by the Director, deposit a sum equivalent to the amount drawn in the account from which the amount was drawn.

(5) A performance bond required by this Regulation or the terms of a license shall be lodged within one week of the issuance of the license.

(6) If a performance bond is not lodged in accordance with the requirements of this Regulation, the license shall automatically be suspended until such time as the requirements of this Regulation are fulfilled.

### **18. Drawing on performance bonds.**

(1) The Authority may draw on a performance bond for non-compliance in accordance with a term, condition or requirement of the applicable license or this Act.

(2) Where the Authority draws on a performance bond in accordance with Subsection (1), it shall subject to Subsection (6), give written notice in accordance with Subsection (3) to the licensee or, in the case of a foreign vessel, to the legal representative of that vessel.

(3) A notice under Subsection (2) shall:

(a) contain a description of the non-compliance alleged and a statement of the amount which it is proposed to draw; and

(b) state that the bond will be drawn upon if no objection is received by the Authority within 14 days from the date of the notice.

(4) Unless the terms of the license permit otherwise, the amount that may be drawn on a performance bond Subjection (3)

(a) shall not exceed 100 per cent of the maximum fine prescribed for the offense created by the non-compliance

(5) Where no objection is received by the Authority within 7 days from the data of a notice under this Section, the Authority may draw directly on the performance bond.

(6) Where an objection is received by the Authority, it shall give due consideration to the reasons why it should nor draw directly on the performance bond and afford an opportunity for the objector to be heard within 7 days. Any decision the Authority makes after affording an opportunity for a hearing, or after holding a hearing, shall be final.

(7) For the purposes of this Regulation, it shall be sufficient for the Director and two Board members to be present at any hearing and render a final decision.

(8) Notwithstanding any other provision of this Part, where a person who has been duly served a summons to answer a charge of a contravention of, or failure to comply with, a term or condition of a license, fails to appear in answer to the summons, the Authority may, without notice, draw directly on any maximum fine prescribed for the offense created by the non-compliance.

(9) A performance bond in the form of a cash deposit shall be returned at the end of the period of validity of the license.

## **PART V - VALIDITY OF, VARIATIONS TO LICENSES**

(1) Notwithstanding Section 70 of the Act, the period of validity of a license issued for foreign fishing vessels or domestic based fishing vessels fish export facilities or aquaculture operations shall not exceed on year, but may be renewable up to a period of 10 years if the applicable access agreement or other instrument of establishment so provides.

(2) Unless otherwise provided in this Act, the period of validity of all other license or authorizations shall not exceed one year.

### **(20) Interim Licenses.**

(1) The Director may issue a license to a foreign fishing vessel or domestic-based vessel on an interim basis for a period not exceeding thirty days where:

- (a) an access agreement has not yet been concluded, and there is an undertaking in writing to do so by the party with whom such agreement is to be concluded;
- (b) the fishing vessel has good standing on the Regional Register of Foreign Fishing Vessels;
- (c) the license issuance is consistent with national law and international obligations, including any fisheries management agreement; and
- (d) fees have been paid, to which no rebate or refund of any kind shall apply.

(2) An interim license may only be issued once in respect of an fishing vessel.

(3) A decision taken within the thirty day period of validity of the interim license not to enter into an access agreement shall not affect the period of validity of the interim license.

## **21. Transferability.**

(1) A license is not transferable except under such circumstances as may be approved by the Authority.

(2) A license issued in respect of a vessel, premises or place may not be transferred to be held in respect of another vessel., premises or place

## **22. Change of ownership of licensee.**

(1) A licensee which is corporate person and which proposes a change in its shareholding or beneficial ownership shall notify the Director within reasonable time prior to such change.

(2) If such change results in a change of circumstances fundamental to the grant of the license, the Director shall notify the licensee that the change will result in revocation of the license.

(3) If a licensee which is corporate person changes its shareholding or beneficial ownership without notifying the Director, and this results in a change of circumstances fundamental to the grant of the license, the license shall be revoked upon approval by the Director and two Board members.

## **23. Lost, destroyed or defaced license.**

(1) Where a license has been lost or destroyed, the licensee may make written application to the Director for the issue of duplicate license.

(2) Where the Director is satisfied that:

- (a) the license has been lost or destroyed; and

(b) no improper use has been made or is being made of the license, he may, on payment of the prescribed fee, issued a duplicate license to all licensee.

(3) Where a license has been defaced, the licensee shall, on returning the license to the Director and on payment of the prescribed fee, be issued with a duplicate license which shall have the same force and effect as the original license.

#### **24. Automatic suspension of license.**

(1) No license shall be issued which authorizes fishing or a related activity in contravention of this Act or an applicable access agreement, but is so issued, to the extent that a license's terms contravene this Act, it shall be automatically suspended upon notification by the Director.

(2) If the good standing of a licensed vessel is withdrawn, any license in respect of the vessel is automatically suspended until and unless the good standing of the vessel is restored.

(3) If a performance bond is not lodged as required in accordance with Section \*\*, the license in respect of which the performance bond is required is automatically suspended until and unless the performance bond is lodged.

#### **25. Suspension of license.**

(1) The Director, with the concurrence of two Board members, may suspend a license, either generally or in relation to specified area:

(a) if a material misrepresentation, omission or misstatement of fact has been made in the application for the license and discovered after the license was issued;

(b) if there has been any misreporting or failure to report as required under this Act;

(c) if he has reasonable grounds to suspect that there has been contravention of, or a contravention of, or a failure to comply with, a term or condition of the license, not being a ground to which he has previously exercised his powers under this section in relation to the license;

(d) if any fee, change or levy required in respect of the license has not been paid;

(e) for a specified period, if he is satisfied that the suspension is necessary for the proper management of a fishery;

(f) if the holder of the license has been charged with an offense involving dishonesty under any law and there has been no final determination of the charge;

(g) if as a result of the operations of the licensee, there has been a conviction for an offense under this Act and the relevant fine or penalty has not been paid within the required time;

(h) on any other ground under this Act.

(2) Before a license is suspended, the Director shall serve a notice on the holder specifying the ground for the proposed suspension and:

(a) where the license is being suspended under Subsection (1) (b),(c), (d) or (g) allow the holder not more than 7 days after the date of serving of the notice to remedy the contravention or the failure to comply or pay; or

(b) where the license is being suspended under Subsection (1) (a) or (f), allow the holder not more than 7 days after the date of service of the notice to make representations as to why the license should not be suspended.

(3) Unless sooner revoked, the suspension of a license under Subsection (1) takes effect on the expiry of the time allowed in the notice under Subsection (2) and continues until the suspension is rescinded by the Board or the license expires or is canceled.

(4) Where the Board is satisfied that the ground for suspension does not apply or is not sufficiently serious as to merit suspension, it shall rescind the notice of suspension.

(5) The Board on the recommendation of the Director shall rescind a suspension:

(a) under Subsection (1)(e), if the suspension is no longer required for the proper management of the fishery; and

(b) under Subsection (1)(f), when there has been final determination and if convicted any penalty has been paid.

## **26. Automatic termination of license.**

(1) Any current license in respect of a vessel shall automatically terminate, unless otherwise provided in this Act, where:

(a) the flag state registry of a vessel changes;

(b) the ownership or control changes and approval has not been given by the Director in accordance with Regulation 23;

(c) it is established that a licensed vessel has more than flag State registration;

(d) the good standing of a licensed vessel is withdrawn; or

(e) a local fishing vessel, a locally-based fishing vessel, a domestic-based fishing vessel or a foreign fishing vessel no longer qualifies as such and the new status contravenes any term or condition of the license.

## **27. Revocation of license by Board.**

(1) The Board may revoke a license:

(a) if it is satisfied that information required to be given or reported under this Act and any applicable access agreement is false, incomplete, incorrect or misleading;

(b) if the licensee, or where the licensee is a corporate person, any of the principals of the licensee:

(i) is convicted of an offence against this Act or any other law concerning fisheries matter;

(ii) is convicted of an offence involving dishonesty under any law;

(iii) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(c) if it is satisfied on reasonable grounds that the licensed activity is not being conducted in accordance with the requirements of the Act and these Regulations, any applicable access agreement or other agreement, or any other relevant law, or that there has been a significant change in the circumstances of the licensee sufficient to justify cancellation of the license;

(d) if it is satisfied that there has been serious misreporting or consistent failure to report as required under this Act;

(e) if any fee, charge or levy required in respect of the license has not been paid; or

(f) on any other ground under this Act for the cancellation of a license.

(2) For the purposes of Subsection (1), "principals" in respect of a corporate person includes director, manager, secretary or other similar officer or any person purporting to act in such a capacity.

(3) Where it is proposed to revoke a license under this Regulation, the Director shall serve a notice on the licensee:

(a) advising of the intention to revoke the license and of the reasons for the intended revocation;

(b) requiring, within 7 days from the date of service of the notice, that representations be made as to why the license should not be revoked.

(4) Where the licensee does not make, within 7 days, representations under Subsection (3)(b), the license shall be revoked.

(5) Where representations have been made under Subsection (3)(b), the Director shall forward to the Board a written report on the representations, and the Board shall consider the report in reaching its decision, which shall be final.

## **28. Surrender of license.**



(1) Where a license is suspended, terminated or canceled under these Regulations, the license-holder shall, within three (3) working days of receiving notice of the suspension, termination or revocation, surrender the license to the Director.

(2) On the expiry of the period of suspension of a license, the Director shall return it to the license-holder.

## **PART VI - REPORTING, TRANSHIPMENT AND PORT CALLS**

### **29. Vessel reporting requirements.**

(1) The master or other operator of a licensed fishing vessel shall:

(a) make such position and catch reports as appear in schedule \*\*;

(b) complete daily in the English language, a catch report of all fishing activities in the on the form shown in Schedule \*\*;

(c) where required by an access agreement, make reports in the Agreed Reporting Area, or if a vessel does not operate in the Agreed Reporting Area during a fishing trip, a Statement on Non-Operation in a form approved by the Authority shall be submitted to the Director within 45 days of the completion of a fishing trip or at such time as the Director may requires;

(d) certify that the information in the catch report is true, complete and accurate;

(e) take all measures to ensure that information or data which may be required to be transmitted by an automatic location communicator is transmitted continuously, accurately and effectively to the designated receiver;

(f) immediately report to the Director any action during the time the vessel is in the Fishery Waters which results in the dumping or introduction from the vessel of raw sewage, by-catch, rubbish or other garbage, fuel, fuel wastes, fuel wastes by-products, and other waste materials and substances in contravention of Section 93 of the Act into the lagoons and atolls or within 12 miles of the baseline of any island; and

(g) produce any report require under this Act demand to an authorized officer or authorized observer, or at such times as the Director may require.

(2) A catch report referred to in Subsection (1) shall include information and data as required from time to time by the Director in an approved form and as required by the terms of the license, this Act any applicable access agreement.

(3) The master or other operator of a licensed fishing vessel shall provide to the Authority, in a farm and by a means approved by the Director such reports during and/or at the end of fishing trips as he shall require from time to time in an approved form.

(4) The Director may require such other reports in respect of any vessel as he may deem necessary:

- (a) for fisheries conservation and management;
- (b) for any activity licensed under this Act;
- (c) to implement or enforce the provisions of this Act, any access agreement or fisheries management agreement.

### **30. Transshipment reports**

(1) A transshipment report in the form appearing in schedule \*\* to the Regulations, or such other forms as may be approved from time to time by the Director, shall be completed and returned to the Director within five days of the transshipment.

(2) A person transshipping fish from a foreign fishing vessel in accordance with this Act may, upon completion of the transshipment, apply to an authorized officer or authorized observer, or such other person as the Director may designate, to certify the transshipment, and where the fishery officer is satisfied that the transshipment has been carried out in accordance with this Act, he shall certify the transshipment report accordingly.

### **31. Reporting may be required for other licenses issued under this Act.**

Any person licensed under these Regulation for fish export facilities, live fish harvest and export, trial fishing, marine scientific research and aquaculture or certification for export, shall submit such reports as may be required by the Director or the Authority from time to time.

### **32. Port calls**

The operation of a licensed vessel shall ensure that the vessel makes port calls for the purposes of inspection as may be required in access agreement or by the Director.

## **PART VII - EXPORT REQUIREMENTS**

### **33. Application of Part VII**

(1) The provisions of this Part apply to:

- (a) fish taken from the Fishery Waters; and
- (b) fish taken are imported into the country and are not held in bond, which are stored, prepared or processed for export or re-export.

(2) The provisions of this Part do not apply to:

- (a) fish which is taken by foreign fishing vessel and not off-loaded in the Republic of the Marshall Islands; and

(b) ships' stores brought to or shipped in Republic of the Marshall Islands.

### **34. Notice of export**

A person who has exported fish shall, within a reasonable time after the date of shipment, provide to the Director a Notice of Export in such form and at such time as may be approved by the Director.

### **35. Loading for export**

(1) Where fish is being loaded for export, whether into a container system unit, the hold of a ship or an aircraft, or otherwise, an authorized officer or authorized observer shall be afforded a reasonable opportunity to inspect the loading of the fish, and any person involved in the loading operation shall assist the such officer in this inspection and otherwise comply with the provisions of Section 87 of the Act.

(2) An authorized officer or authorized observer who has inspected the loading of fish in a container system unit may, upon completion of the loading, seal the unit by a means approved by the Director.

## **PART VIII - MISCELLANEOUS**

### **36. Electric transmission**

(1) For the purpose of this Act, the Director may approve the transmission of accounts records, returns, transactions, information, notices, objections, requests, applications or other documents required under this Act by means of electronic transmission.

(2) An approval under subsection (1):

(a) may relate to any person or any one or more classes of person;

(b) may relate to any one or more classes of accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents;

(c) may specify the person within the Authority to whom the accounts, records, returns, transactions, information, notices, objections, requests, applications, or other documents shall be transmitted;

(d) may specify the method of transmission that may be used.

(e) shall be subject to such conditions and other provisions, which may be determined by the Director.

(3) The Director may alter or revoke any approval given under Subsection (1) of this Section.

### **37. Vessel Monitoring systems, transponders.**

(1) The Director shall designate officers of the Authority to be authorized to receive and deal with information and data received from a vessel monitoring system, and shall define the access of any person or class of persons to such information and data.

(2) In any circumstances where the installation and maintaining of a transponder or other equipment forming the part of a vessel monitoring system is required pursuant to this Act or an access agreement, it shall be the responsibility of the operator to pay for the full cost of such installation and operation, and the administration of the vessel monitoring system.

(3) The operator shall ensure that the transponder or other equipment forming part of a vessel monitoring system is registered with the South Pacific Forum Fisheries Agency and in accordance with such other requirements as the Director may notify from time to time.

(4) The operator of any fishing vessel required to install and maintain a transponder or other equipment forming part of a vessel monitoring system shall ensure:

(a) within a reasonable time prior to entry into the Fishery Waters, that the transponder is switched on, is operating properly and transmits information in accordance with the;

(i) standards and requirements of the Director; and

(ii) manufacturer's specifications;

(iii) that the Director is notified if a transponder;

(iv) is removed from the vessel; or

(v) fails to operate properly

(5) Notwithstanding the requirements in Section 90 (7) of the Act, no person shall:

(a) tamper with a transponder or other vessel monitoring system equipment; or

(b) receive information or data from a vessel monitoring system when not authorized to do so by the Director.

(6) Notwithstanding the provisions in Section 89 (2) of the Act, if, in any proceedings for an offense against the Act, the prosecution tenders evidence that has been produced wholly or partly by a machine, transponder, device or technical process, and the machine, transponder, device, or technical process is of a kind that ordinarily does what the prosecution asserts the machine, transponder, device, or technical process has done, then, in the absence of proof to the contrary, the evidence shall be admissible and sufficient proof that, on the relevant occasion, the machine, transponder, device, or technical process operated in the way asserted by the prosecution.

(7) The Director may authorize the release of information obtained by means of vessel monitoring system for purposes of judicial proceedings or Summary Administrative Proceedings.

### **38. Marking of Vessels**

All licensed fishing vessels shall bear markings in accordance with the requirements in Schedule\_.

### **39. Marking of gear**

(1) Where the terms of a license or any other authority under this Act require it, fishing gear shall be marked so as to identify:

- (a) its ownership
- (b) the vessel in conjunction with which it is used; or
- © its location or any combination of these, in accordance with the terms.

(2) The license holder, owner or operator in respect of a fish-aggregating device used in fisheries waters shall ensure that it is clearly marked:

- (a) where the device is used in conjunction with a licensed vessel, with the license number of the vessel; or
- (b) in any other case, sufficiently to identify the owner or any person placing and using the device.

(3) A fish aggregating device or other equipment deployed independently of a vessel shall be placed so that it is well clear of navigational routes.

### **40. Marking of support craft**

A support craft used in conjunction with a licensed vessel shall be marked in a manner approved by the Director.

### **41. Fees for analysts' certificates**

A copy of a certificate of analysis relating to fish shall be supplied by the Authority to the exporter of the fish on payment of a sum as determined from time to time by the Director.

### **42. Fees for officers' services**

(1) Where the services of an authorized officer or authorized observer are, for the purposes of this Act, made available to a person transshipping or exporting fish outside such officer's normal hours of duty, including on a Sunday or on a public holiday, the Authority shall make a charge for his services on a user-pay basis.

(2) Where an officer is on duty and required to proceed away from his ordinary station, the Director shall set the rate to be charged in respect of his services.

#### **43. Procedures for rewards for information resulting in conviction for violations of this act**

(1) Payment for a reward provided under Section 16(1) © shall be made to an individual or individuals in equal shares where more than one is entitled, in accordance with the Regulations.

(2) Payment of the reward shall be made to the natural person or persons who sight a commercial fishing vessel engaged in illegal operations and provide the first information leading to enforcement action within a reasonable time, and a conviction for an offense against this Act or determination of a violation under administrative proceedings.

(3) Any attempt to do more than gather and provide information, such as taking unauthorized enforcement action, can result in a decision by the Reward Panel, established in accordance with these Regulations, not to approve a award.

(4) To claim a reward, the claimant shall complete the form in schedule \*\* and submit it to the Director within a reasonable time.

(5) For the purposes of this Section, "information" includes testimony, notes, sketches, drawings, photographs and videotapes.

#### **44. Establishment and operation of the Reward Panel.**

(1) There is hereby established within the Authority a Marine Resources Authority Reward Panel ("the Panel") to discharge the duties, perform the functions and exercise the powers specified in this Regulation.

(2) The Panel shall consist of the Director, who shall head the panel, and two (2) other persons appointed by the Board.

(3) The Panel shall receive, consider and appraise all applications for reward submitted under these Regulations, and decide whether an applicant is, or which applicants are, entitled to share in the reward.

(4) Where it approves an award in accordance with Section 16(1)© of the Act and these Regulations, it shall calculate and certify the amount to be awarded as a reward to any or all applicants, and arrange for payment of such amount;

(5) In carrying out its functions, the Panel shall be impartial, act promptly, fully consider each application, conduct a hearing if necessary to consider testimony from applicants and others, apply the rules of equity and, as far as possible, act judiciously without necessarily applying the strict rules of evidence.

(6) Decisions by the Panel regarding rewards are subject to review and certification by the

Board.

(7) Rewards shall be paid out of the Sea Patrol Fund as defined in the Public Safety (Amendment) Act 1991.

(8) Any decision by the Panel to make rewards and by the Board to certify such award are final. No liability relating to reward payments shall accrue against the Republic of the Marshall Islands, including the Authority and Ministry of Justice.

#### **45. Delegation of Licensing Authority by Director**

The Director may delegate his authority in respect of licenses under this Act to such Licensing Officer as he may designate writing.

### **PART IX- OFFENSES AND PENALTIES**

#### **46. Offenses.**

A person commits an offense who-

(a) otherwise contravenes or fails to comply with any provision of this Regulation, commits an offense and shall be liable for the penalty set out in Section xx.

#### **47. Penalties**

(1) A person who commits an offense against the Act or this Regulation for which no other penalty is provided is liable for a penalty-

(a) in the case of a natural person – a fine not exceeding \$50,000; and

(b) in the case of a corporation – a fine not exceeding \$100,000.

A default penalty may be imposed for non-payment of fines, not exceeding \$500 per day.

### **SCHEDULE A**

#### **LICENSE FEES**

CLASS OF LICENSE

LICENSE FEE

1. Fishing Vessel License

Foreign Fishing Vessel

2. Fishing Vessel License

Locally Based Foreign Fishing Vessel

3. Trial Fishing License

4. Aquaculture License

5. Fish Export Facility

Premises or vessel

6. Live Fish Capture and Export License

7. Issue of Duplicate License

8. License Application Fee

**SCHEDULE B**

Section 16(1)(c) of the Marine Resources Act, 1997

**Regulations 45 and 46**

**APPLICATION FOR REWARD**

1. Name of Applicant: \_\_\_\_\_

2. Mailing Address: \_\_\_\_\_

3. Home Address if different from Mailing Address:  
\_\_\_\_\_

4. What was the date and time you sighted the commercial fishing vessel?  
\_\_\_\_\_

5. What did the vessel appear to be doing at the time?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



6. Where were you when you sighted the vessel?

\_\_\_\_\_

7. Was the vessel within or outside the Fishery Waters, or any prohibited zone?

\_\_\_\_\_

\_\_\_\_\_

8. How did you know whether it was within or outside the Fishery Waters or any prohibited zone?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. Give details of the identification mark(s), or other means by which the vessel was identified:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. State whether the information provided was in the form of testimony notes sketches, drawings, photographs, videotapes, etc. Please attach copies, if any:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. To whom was the information provided? Please state the name and official designation of the person:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

12. When and where was the information provided?

\_\_\_\_\_

13. Evidence of proof or other statement to support the claim that information provided led to or resulted in a conviction, administrative penalty or other similar determination under this Act:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Applicant's signature: \_\_\_\_\_

Applicant's name in full: \_\_\_\_\_

**AFFIDAVIT**

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I, \_\_\_\_\_, of \_\_\_\_\_ hereby state that all the information provided by me is true in all material respects.

SWORN before me on: \_\_\_\_\_

\_\_\_\_\_  
Deponent

\_\_\_\_\_  
Notary Public

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