Marine Resources (Licensing Fees) Amendment Regulations 2023

Sir Tom J. Marsters, KBE

Order in Executive Council

At Avarua, Rarotonga this 17th day of January 2023

Present:

His Excellency the King's Representative in Executive Council

Pursuant to section 92 of the Marine Resources Act 2005, His Excellency the King’s Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Regulations

1 Title
These regulations are the Marine Resources (Licensing Fees) Amendment Regulations 2023.

2 Commencement
These regulations come into force on the day after the day they are made.

3 Principal regulations
These regulations amend the Marine Resources (Licensing) Regulations 2012 (the principal regulations).

4 Regulation 12 replaced (Fees)
Replace Regulation 12 (Fees) of the principal regulations with:

"12 Fees
(1) The fees, royalties and other forms of compensation payable in respect of a foreign fishing licence shall be:
   "(a) those established by an applicable bilateral or multilateral access agreement made under the Marine Resources Act 2005; or
   "(b) where there is no such applicable agreement, those set out in Part B of the Second Schedule of these regulations."

5 Regulation 31 amended (Transhipment)
(1) Replace the heading to Regulation 31 of the principal regulations with “Transhipment or bunkering”.
(2) In Regulation 31, after “shall not tranship”, insert “or bunker”.

6 Regulation 32 amended (Application for transhipment permit)
(1) Replace the heading to Regulation 32 of the principal regulations with “Application for transhipment permit or bunkering permit”.
(2) In Regulation 32, after “for a transhipment permit”, insert “or bunkering permit”.

7 Regulation 33 amended (Transhipment permit)
(1) Replace the heading to Regulation 33 of the principal regulations with “Transhipment or bunkering permit”.
(2) In Regulation 33, after “Every transhipment permit”, insert “or bunkering permit”.

8 Regulation 34 amended (Fees)
In Regulation 34 of the principal regulations, after “of a transhipment permit”, insert “or bunkering permit”.

2023/03
9 Regulation 35 amended (Grounds for permit refusal)
In Regulation 35 of the principal regulations, after “for a transhipment permit”, insert “or bunkering permit”

10 New Regulation 36A inserted (Conditions of bunkering)
After Regulation 36 of the principal regulations, insert:

“36A Conditions of bunkering
“(1) Every bunkering permit shall be subject to the following general conditions—
“(a) The licensed bunkering vessel shall clearly display, on both sides (port and starboard) and the deck, its international radio call sign and the country (flag state) registration number.
“(b) The licensed bunkering vessel shall only engage with vessels authorised to operate in the fishery waters or in the relevant high seas area.
“(c) The Master of the licensed bunkering vessel shall report by email to the Secretary of Marine Resources at the following times:
“(i) immediately upon the licensed bunkering vessel’s entry to the fishery waters;
“(ii) at least 24 hours prior to entry into any waters under the national jurisdiction of another State;
“(iii) upon entry into and exit from the high seas;
“(iv) 72 hours prior to bunkering;
“(v) immediately upon the licensed bunkering vessel’s departure from the fishery waters;
“(vi) at least 24 hours prior to the licensed bunkering vessel entering into any port.
“(d) Each report required under paragraph (c) must contain the following information about the licensed bunkering vessel:
“(i) regional register number;
“(ii) international radio call sign;
“(iii) position at time of reporting; and
“(iv) intended action, including the particulars of fishing vessel(s) to be engaged.
“(e) The Master shall maintain current bunkering logs which are stored on board and which contain (in English):
“(i) a record of every instruction, direction or requirement communicated by the Cook Islands authorities;
“(ii) the daily bunkering activity of the vessel;
“(iii) the particulars of vessels engaged;
“(iv) the position in which bunkering activity was undertaken;
“(v) the quantity of fuel discharged; and
“(vi) such other information as the Secretary may reasonably require from time to time in order to ascertain the licensed bunkering vessel’s bunkering or related activities.
“(f) The Master of the licensed bunkering vessel must allow any authorised and identified officer to board the vessel within the fishery waters for the purpose of inspection and examination.
The Master and Operator shall take all necessary precautions to prevent pollution in port and at sea. In the event of a fuel spill from the licensed bunkering vessel in port or at sea, the Master and Operator must take immediate action to prevent further spillage and commence clean-up and recovery of spilled fuel.

The Owner and/or Operator shall be responsible for all costs associated with the containment and recovery of spilled fuel and the costs of repairing any damage caused by the licensed bunkering vessel.

All crew assigned to fuel transfer stations must have completed any relevant training and be certified for the tasks assigned. Such training must be of a standard recognised regionally and internationally.

11 First Schedule amended (Forms)
Replace Form I and Form J of the First Schedule of the principal regulations with Form I and Form J set out in Schedule One of these regulations.

12 Second Schedule replaced (Fees)
Replace the Second Schedule (Fees) of the principal regulations with Schedule Two of these regulations.
Schedule I
Forms I and J

FORM I

GOVERNMENT OF THE COOK ISLANDS

Marine Resources Act 2005

APPLICATION FOR A TRANSHIPMENT OR BUNKERING PERMIT
(Marine Resources (Licensing) Regulations 2012 - Part VII)

INSTRUCTIONS:
- Clearly mark the boxes [X] where appropriate
- Answer all the questions on this form either by filling in the spaces provided or checking the box
- Underline surname or family name
- Address means complete mailing address
- All units metric, please specify if other units used

WARNING: It is an offence, punishable by a fine, to make a false, incomplete or misleading statement. If any of the information given is false, incomplete or misleading, a permit will not be issued. A permit issued on the basis of such information is liable to cancellation.

Transshipment [ ]
Bunkering [x]

Cook Islands EEZ [x]
High Seas [ ]

VESSEL DETAILS:

Name of Vessel: 

Country of Registration (Flag):

International Radio Call Sign: 

Flag State Registration Number:

PREVIOUS VESSEL DETAILS (IF APPLICABLE):

Previous Name of Vessel: 

Last Country of Registration (Flag):
Last Radio Call Sign: ____________________________  Last Flag State Reg Number: ____________________________

Year Change Occurred: ____________________________

VESSEL SPECIFICATIONS:

Gross Registered Tonnage: ____________________________  Length Overall: ____________________________

Country Built: ____________________________  Year Built: ____________________________

Hull Material:

- Aluminium □  - Fibreglass □  - Steel □  - Wood □

Other (specify): ____________________________

Engine Make / Model: ____________________________  Total Engine Power: ____________________________

Total Fuel Carrying Capacity: ____________________________  Rated Speed (Knots): ____________________________

Normal Crew Compliment: ____________________________

VESSEL OPERATOR / OWNER / MASTER / CAPTAIN:

Operator
Name: ____________________________  Owner
Name: ____________________________
Address: ____________________________  Address: ____________________________

Master / Captain
Name: ____________________________  Address: ____________________________

1. Is the owner the subject of proceedings under the bankruptcy laws of any jurisdiction?  
   If the answer is "Yes", please give details (attach details on a separate sheet).
   Yes □  No □

2. Has the vessel ever been used in an offence against the Marine Resources Act?  
   If the answer is "Yes", please give details (attach details on a separate sheet).
   Yes □  No □

3. Has the vessel ever been used in an offence against the Marine Resources Act?  
   Yes □  No □
4. Does the vessel hold current authorisations elsewhere in the region. 
   If "Yes", please specify the authorising country or countries and authorisation number(s)

   Country ______________________ Permit No. ______________________

VEssel InMarSAT ALC details

Is there a FFA VMS type approved ALC installed on the vessel?
   If the answer is "Yes", please give details below.

   Inmarsat mobile unit number: ______________________
   Name of installer: ______________________
   Inmarsat unit serial number: ______________________
   Contact details: ______________________
   Make / Model: ______________________
   Software Version: ______________________

APPLICANT DETAILS

Name: ______________________
   Tick as appropriate:
   Authorised Agent [ ] Owner [ ]
   Operator [ ]
   Phone: ______________________
   Fax: ______________________
   Email: ______________________

Address: ______________________
APPLICANT DECLARATION

I hereby apply for a bunkering / transhipment permit in respect of the vessel described above. I declare that the above information is true, complete and correct. I understand I am required to report immediately to the Secretary of Marine Resources any changes to the information given on this form within seven (7) days and further understand that failure to do so may render me liable to prosecution.

Signature of Applicant

Date

ATTACHMENTS CHECKLIST

Attach the following documentation to your application:

- Cook Islands Shipping Registration Certification
- FFA Certificate of Registration
- Recent Photograph of the Vessel and markings and identification (port and starboard shots of the whole vessel and a stern shot – not older than six months)
- Certified Schematic and Stowage Plans (aka General Arrangements Plan)
- Crew list and details
- Details of any other permit currently valid in another zone

This application is to be forwarded to the Secretary, Ministry of Marine Resources at the address shown below and is to be accompanied by the prescribed application fee.

The Secretary
Ministry of Marine Resources
PO Box 85
Avarua
Cook Islands

Telephone: (682) 28721
Fax: (682) 29721

WARNING: It is an offence, punishable by a fine, to make a false, incomplete or misleading statement. If any of the information given is false, incomplete or misleading, a permit will not be issued. A permit issued on the basis of such information is liable to cancellation.
FORM J
GOVERNMENT OF THE COOK ISLANDS

Marine Resources Act 2005

TRANSHIPMENT OR BUNKERING PERMIT
(Marine Resources (Licensing) Regulations 2012 - Part VII)

Permit Number: ____________________________ Date of Issue: ____________________________

The person named as the permit-holder below is authorised to (check as applicable):

☐ Tranship fish in the Cook Islands fishery waters, in accordance with section 37 of the Marine Resources Act 2005; OR

☐ Undertake bunkering in the Cook Islands fishery waters, in accordance with section 35 (1) (a) of the Marine Resources Act 2005.

Activities undertaken pursuant to this permit must be carried out in accordance with the terms and conditions set out in this permit and in the Act, and as prescribed from time to time in the regulations.

Name: ____________________________ Phone: ____________________________
Address: ____________________________ Fax: ____________________________
Email: ____________________________ FFA VID: ____________________________

Name of receiving vessel / bunkering vessel (as applicable) ____________________________

Authorised place for transhipment or bunkering: ____________________________

Quantities of fish to be transhipped / fuel to be bunkered: ____________________________

Source of supply: ____________________________
SPECIAL CONDITIONS

PERIOD OF VALIDITY

Subject to the Marine Resources Act 2005 and Regulations made thereunder, this licence is valid

FROM the DAY OF 20
TO the DAY OF 20

Minister of Marine Resources

Date

THIS PERMIT IS NOT TRANSFERABLE
SECOND SCHEDULE (FEES)

Part A: Application Fees
1. Application for a fishing licence $350
2. Application for High Seas Authorisation $350
3. Application for Authorisation to fish in the waters of another State $350
4. Application for a Transhipment or Bunkering permit $350

Part B: Fees for Fishing within Fishery Waters
These fees apply where there are no fees established by an applicable bilateral or multilateral access agreement.

5. Annual fishing licence for Cook Islands Fishing Vessels —

<table>
<thead>
<tr>
<th>LOA</th>
<th>Locally-Based</th>
<th>Not Locally-Based</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20 metres</td>
<td>$2,000</td>
<td></td>
</tr>
<tr>
<td>20 – 40 metres</td>
<td>$5,000</td>
<td>$40,000*</td>
</tr>
<tr>
<td>Over 40 metres</td>
<td>$7,500</td>
<td>$60,000*</td>
</tr>
</tbody>
</table>

The requirements for a vessel to be considered “locally-based” are —
(a) the vessel is fully operated from a Cook Islands port;
(b) the vessel fishes mainly in Cook Islands waters; and
(c) the vessel lands all or the majority of its catch in Cook Islands.

6. Annual fishing licence for Foreign Fishing Vessels
(a) Under 40 metres LOA $50,000*
(b) Over 40 metres LOA $75,000*

7. Annual fishery development fee $10,000
This additional fee is payable by all vessels not locally-based

8. Fees in Part B marked with an (*) should be reduced by $20,000 if the following conditions are met:
(a) in the licence period immediately preceding the licence period which is the subject of the present application, the vessel unloaded/landed twenty metric tonnes or more of fish products caught in Cook Islands fishery waters in a Cook Islands port; and
(b) that product was processed through a local fish processing facility approved by the Secretary of Marine Resources.
Part C — Fees for fishing exclusively outside Fishery Waters

9. Annual High Seas Fishing Authorisation
   (a) Within WCPO area $5,000
   (b) Outside WCPO area $10,000

10. Annual Authorisation to fish in the waters of another State $500

Part D — Transhipment and Bunkering

11. Annual Transhipment or Bunkering Permit $5,000
These regulations are administered by the Ministry of Marine Resources.
These regulations were made on the 17th day of January 2023.