



Tonga

FISHERIES (LOCAL FISHING) REGULATIONS

2016 Revised Edition

Chapter 42.06.6



FISHERIES (LOCAL FISHING) REGULATIONS¹

IN EXERCISE of the powers contained in section 59 of the Fisheries Act 1989, the Minister of Fisheries makes the following Regulations:

Commencement [13 June 1995]

1 Citation

These regulations may be cited as the Fisheries (Local Fishing) Regulations, 1995.

2 Interpretation

- (1) In these Regulations —
 - (a) “**the Act**” means the Fisheries Act 1989;
 - (b) the terms and phrases defined in the Fisheries Act 1989 shall be given the same meaning in these regulations, unless the context requires otherwise;
 - (c) “**operator**” means any person who is in charge of, directs or controls any vessel, including the owner, charterer and master.
- (2) A reference in these regulations to —
 - (a) a form is a reference to a form of that number in Schedule 1; and
 - (b) a Schedule is a reference to a Schedule to these regulations.

3 Forms and fees

- (1) The forms set out in Schedule 1, with such modifications as the circumstances require, are hereby prescribed for the purposes of the Act and these regulations.

- (2) The fees set out in Schedule 2 are hereby prescribed for the purposes of the Act and these regulations.

PART I - LOCAL FISHING VESSELS

4 Registration of local fishing vessels

- (1) An application to register a local fishing vessel under section 4 of the Act shall be in Form 1 and shall be accompanied by the fee specified in Part 1 of Schedule 2.
- (2) Where the Registrar is satisfied that the vessel in respect of which the application is made is fit for fishing and satisfies such requirements as may be laid down from time to time under Tongan law regarding safety and hygiene, he shall on the payment of the fee specified in Part 1 of Schedule 2 cause the vessel to be registered and shall issue a certificate of registration in respect of that vessel.
- (3) A certificate of registration for a local fishing vessel shall be in Form 2.
- (4) A notification of any change in ownership of a registered local fishing vessel shall be in Form 3 and shall be accompanied by the certificate of registration and the fee specified in Part 1 of Schedule 2.
- (5) The Registrar may at any time require a vessel registered under this regulation to be inspected, and if he considers that the vessel is not fit for fishing or does not satisfy the laws concerning safety and hygiene he shall cancel the certificate of registration.
- (6) A notification of any addition or modification to a registered local fishing vessel shall be in Form 4 and shall be accompanied by the certificate of registration and the fee specified in Part 1 of schedule 2.
- (7) Upon any notification under regulation 4(6) the Registrar shall —
 - (a) cause the vessel to be inspected; and
 - (b) if satisfied that the vessel as modified is fit for fishing and satisfies such requirements as may be laid down from time to time under Tongan law regarding safety and hygiene, endorse and return the certificate of registration; or
 - (c) if not so satisfied, withdraw the registration of the vessel and cancel the certificate of registration.

5 Application for local fishing vessel licence

An application for a local fishing vessel licence made under section 5 of the Act shall be in Form 5, addressed to the Registrar and be accompanied by the certificate of registration of the vessel and the fee specified in Part 1 of Schedule 2.

6 Form

A local fishing vessel licence shall be in Form 6 and unless sooner cancelled or suspended shall be valid for a period of 12 months from the date of issue.

7 Fees

- (1) Subject to sub-regulation (2), the fee payable for the issuance or renewal of a local fishing vessel licence is such amount as is specified in Part 2 of Schedule 2.
- (2) Notwithstanding any provision of the Act, no fees shall be payable in respect of any licence issued to a fishing vessel owned and operated by the Government of Tonga.

8 Grounds for licence refusal

In addition to the grounds for licence refusal set out in section 5(4) of the Act, no licence in respect of a local fishing vessel shall be issued or renewed unless:

- (a) all information requested by the Registrar in respect of the proposed fishing operation or related activities has been provided in the manner required or requested; and
- (b) the vessel is seaworthy.

9 General conditions

Every local fishing licence shall be subject to the following general conditions:

- (a) any change in the information set out in the application form shall be notified to the Registrar as soon as practicable and in any case no later than seven days from the date of the change;
- (b) the vessel shall be seaworthy and shall comply with safety standards applicable from time to time under the laws of Tonga concerning shipping;
- (c) the vessel shall display identification markings in accordance with Schedule 3 to these regulations;
- (d) no fishing shall be undertaken except as authorised by the licence;

- (e) no fish may be transhipped from or onto the vessel except with the permission of the Registrar in writing and in accordance with such conditions as the Registrar may specify;
- (f) the master of the vessel shall cause records to be maintained on a daily basis in such form as the Registrar may from time to time require for the purpose of recording the fishing operations or related activities of the vessel;
- (g) any record maintained under the preceding paragraph shall be transmitted in its original and unaltered form to the Registrar at such time or times as he may require;
- (h) whenever required to do so by the Registrar, a vessel shall carry an observer designated by the Registrar, and the master and crew of such vessel shall provide the observer with such facilities and cooperation as may be required to allow him to carry out his duties;
- (i) the operator shall promptly provide the Registrar with such information in respect of the fishing operations as he may require from time to time.

10 Application to vary licence

An application to vary a local fishing vessel licence as to the authorised areas or species shall be in Form 7 and shall be accompanied by the licence and the fee specified in Part 1 of Schedule 2.

PART II - COMMERCIAL SPORT FISHING VESSELS COMMERCIAL SPORT FISHING VESSEL

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No vessel may be used for commercial sport fishing unless —

- (a) the vessel is a registered local fishing vessel or a locally based foreign fishing vessel registered under regulation 12(1); and
- (b) a valid commercial sport fishing vessel licence under section 8 of the Act has been issued in respect of the vessel.

12 Registration of commercial sport fishing vessels

- (1) A locally based foreign fishing vessel intended to be used for commercial sport fishing may be registered by the Registrar in the same manner as a local fishing vessel.
- (2) For the purposes of regulation 12(1), section 4 of the Act and regulation 4 shall be applied and read as if the references therein to a local fishing vessel were references to a locally based foreign fishing vessel.

13 Application for commercial sport fishing vessel licence

An application for a commercial sport fishing vessel licence under section 8 of the Act shall be in Form 8 and shall be accompanied by the certificate of registration of the vessel and the fee specified in Part 1 of Schedule 2.

14 Form

A commercial sport fishing vessel licence shall be in Form 9 and unless sooner cancelled or suspended shall be valid for a period of 12 months from the date of issue.

15 Fees

The fee payable for the issuance or renewal of a commercial sport fishing vessel licence is such amount as is specified in Part 2 of Schedule 2.

16 Grounds for licence refusal

In addition to the grounds for licence refusal set out in section 8 of the Act, no licence in respect of a commercial sport fishing vessel shall be issued or renewed unless:

- (a) all information requested by the Registrar in respect of the proposed fishing operation or related activities has been provided in the manner required or requested; and
- (b) the vessel is seaworthy.

17 General conditions

Every commercial sport fishing vessel licence shall, in addition to any particular conditions endorsed on the licence, be subject to the following general conditions:

- (a) any change in the information set out in the application form shall be notified to the Registrar as soon as practicable and in any case no later than seven days from the date of the change;
- (b) the vessel shall be seaworthy and shall comply with safety standards applicable from time to time under the laws of Tonga concerning shipping;
- (c) the vessel shall display identification markings in accordance with Schedule 3;
- (d) no fishing shall be undertaken except as authorised by the licence;
- (e) the master of the vessel shall cause records to be maintained on a daily basis in such form as the Registrar may from time to time require for the purpose of recording the fishing operations or related activities of the vessel;

- (f) any record maintained under the preceding paragraph shall be transmitted in its original and unaltered form to the Registrar at such time or times as he may require;
- (g) whenever required to do so by the Registrar, a vessel shall carry an observer designated by the Registrar, and the master and crew of such vessel shall provide the observer with such facilities and cooperation as may be required to allow him to carry out his duties; and
- (h) the operator shall promptly provide the Registrar with such information in respect of the fishing operations as he may require from time to time.

PART III - FISH PROCESSING ESTABLISHMENT

18 Application for fish processing establishment licence

- (1) Every application for a licence to operate a fish processing establishment made under section 24 of the Act shall be in Form 10 and shall be accompanied by the fee specified in Part 1 of Schedule 2.
- (2) The Registrar shall submit the application form, together with a report of the consultation and evaluation required under regulation 19, to the Minister within 90 days of receipt of the application.

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The Minister shall, in considering an application for a licence under section 24 of the Act and any conditions to be attached thereto, take into account the results of —

- (a) Consultations with all other affected Government departments; and
- (b) an evaluation of all relevant factors, including those relating to fisheries, the environment, health and industry.

20 Form

Every licence to operate a fish processing establishment shall be in Form 11 and unless sooner cancelled or suspended shall be valid for a period of 12 months from the date of issue.

21 Fees

- (1) Subject to sub-regulation (2), the fee payable for the issuance or renewal of a licence to operate a fish processing establishment shall be such amount as is specified in Part 2 of Schedule 2.

- (2) Notwithstanding any provision of the Act, no fees shall be payable in respect of any licence issued to a fish processing establishment owned and operated by the Government of Tonga.

22 Grounds for licence refusal

No licence in respect of a fish processing establishment shall be issued, under the provisions of section 24 of the Act if the applicant has been convicted in Tonga of any offence under the Act or any other Act relevant to the operation of a fish processing establishment, unless the Minister decides otherwise on cause shown.

23 Licence conditions

Every licence to operate a fish processing establishment shall be subject to the following general conditions in addition to any other conditions required under the Act —

- (a) the fish processed at such establishment shall not exceed the total quotas allowed to that establishment, including those relating to species and quantity;
- (b) such establishment shall be maintained and operated in a clean and sanitary manner;
- (c) accurate records shall be maintained on a daily basis on such forms as may be required by the Registrar relating to the operations carried out in such establishment, including records of the origin, dates, quantity, type and quality of fish received, processed, sold and exported, and other information which the Registrar may require, and all such records shall be open to inspection at any time by any authorised officer;
- (d) such returns shall be made promptly to the Registrar concerning the operations of the establishment as the Registrar may from time to time require;
- (e) any change in the information submitted in the application form shall be notified to the Registrar as soon as practical and in any case not later than seven (7) days from the date of the change.

PART IV - FISH MARKETING

24 Fish marketing centres

- (1) The Secretary may designate any place as an authorised fish marketing centre and, without prejudice to the powers and duties of any other Government authority in relation thereto, may specify such conditions relating to the operation of such a designated centre as he may see fit.

- (2) The conditions which the Secretary may specify include, but are not limited to the following —
 - (a) the hours during which marketing shall be permitted;
 - (b) the persons who may sell fish;
 - (c) conditions necessary in the interests of public health and hygiene.

25 Buying and selling of fish

- (1) The Minister may by Order published in the Gazette prescribe that in relation to any particular geographical area no buying, selling, bartering, exchanging or offering for sale of fish shall take place otherwise than at an authorised fish marketing centre.
- (2) Where an Order has been made under regulation 25(1) any person who buys, sells, barter, exchanges or offers for sale any fish otherwise than in accordance with the Order of the Minister commits an offence and shall be liable to a fine not exceeding \$500.

PART V - MISCELLANEOUS PROVISIONS

26 Renewal of licence

Where any licence issued under these regulations is renewed within 30 days before its expiry it shall not be necessary to make a fresh application in the prescribed form or to pay an application fee.

27 Information to be true, complete and correct

- (1) Any information required to be recorded, notified, communicated or reported pursuant to any requirement of these regulations shall be true, complete and correct.
- (2) Any change in circumstances which has the effect of rendering any such information false, incomplete or misleading shall be notified immediately to the appropriate person, authority or body.
- (3) Any person who contravenes sub-regulations (1) or (2) commits an offence and shall be liable to a fine not exceeding \$5,000.

SCHEDULE 1**FORMS**

1. Application for Registration of a Local Fishing Vessel
2. Certificate of Registration of a Local Fishing Vessel
3. Notice of Change of Ownership of a Local Fishing Vessel
4. Notification of Addition or Modification to a Local Fishing Vessel
5. Application Form for a Local Fishing Vessel Licence
6. Local Fishing Vessel Licence
7. Application to vary a Local Fishing Vessel Licence
8. Application for a Commercial Sport Fishing Vessel Licence
9. Commercial Sport Fishing Vessel Licence
10. Application for a Fish Processing Establishment Licence
11. Fish Processing Establishment Licence

(the actual forms are with the original regulations published as Legal Notice 5/1995, in the Gazette of 13 June 1995 – published on the Crown Law Website and available from the Fisheries Department)

SCHEDULE 2**FEEES****Part 1 - Fees upon application for Licences and Registration**

1. Application to register and registration of a local fishing vessel:
 - (a) the length of which is 6 metres - \$5.00
 - (b) the length of which exceeds 6 metres, the fee used in 1(a) shall be used as a base then an amount of \$2.00 for every additional metre shall be added.
2. Notice and registration of change in ownership of a local fishing vessel - \$10.00
3. Notice and registration of modification to a local fishing vessel - \$10.00
4. Application for a local fishing vessel licence:
 - (a) the length of which is 6 metres - \$5.00
 - (b) the length of which exceeds 6 metres, the fee used in 4(a) shall be used as a base then an amount of \$2.00 for every additional metre shall be added.
5. Application to vary a local fishing vessel licence - \$5.00
6. Application for a commercial sport fishing vessel licence:
 - (a) the length of which is 6 metres - \$10.00
 - (b) the length of which exceeds 6 metres, the fee used in 6(a) shall be used as a base then an amount of \$5.00 for every additional metre shall be added.
7. Application for a licence to operate a fish processing establishment - \$50.00

Part 2 - Licence fees

1. Local fishing vessel licence
 - (a) the length of which is 6 metres - \$50.00
 - (b) the length of which exceeds 6 metres the fee used in 1(a) shall be used as a base then an amount of \$5.00 for every additional metre shall be added.
2. Commercial sport fishing vessel licence
 - (a) the length of which is 6 metres - \$100.00
 - (b) the length of which exceeds 6 metres the fee used in 2(a) shall be used as a base then an amount of \$5.00 for every additional metre shall be added.

3. Licence to operate a fish processing establishment - \$ 500.00

SCHEDULE 3

(Regulation 9(c), 17(c))

VESSEL IDENTIFICATION MARKINGS

1. All vessels licensed or authorised under the Act shall be marked with their International Telecommunications Union (ITU) Radio Call Signs (IRCS).
2. Vessels not provided with an IRCS shall be marked with the characters allocated by the ITU to the flag State and followed by the licence or registration number assigned by the flag State. In such cases a hyphen shall separate the ITU characters and the assigned number.
3. Apart from the vessel's name or identification and port of registry, the marking system specified above shall be the only other vessel identification mark consisting of letters and numbers painted on the hull or superstructure.
4. The markings shall be prominently displayed at all times —
 - (a) on the vessel's side or superstructure, port and starboard;
 - (b) on a deck, but should an awning or other temporary cover obscure the mark, the awning or cover shall also be marked. Deck marks shall be placed athwartships with the top of the numbers or letters towards the bow.
5. Marks shall be placed as high as possible above the water line. The flare of the bow and the stern should be avoided.
6. The marks shall be —
 - (a) placed so they are not obscured by the fishing gear whether stowed or in use;
 - (b) be clear of the flow from scuppers and overboard discharges including areas which might be damaged or discoloured from the catch of certain species; and
 - (c) not extend below the waterline.
7. Boats, skiffs and craft carried by the vessel for fishing operations shall bear the same mark as the vessel concerned.
8. Block lettering and numbering shall be used throughout.
9. The height (h) of the letters and numbers shall be in proportion to the size of the vessel in accordance with the following —
 - (a) for marks placed on the superstructure (in metres):
Length of vessel overall

Minimum height of letters and numbers

25 m and over 1.0 m

20 m but less than 25 m 0.8 m

15 m but less than 20 m 0.6 m

12 m but less than 15 m 0.4 m

5 m but less than 12 m 0.3 m

under 5 m 0.1 m

- (b) for marks placed on deck, the height shall be not less than 0.3 m for all classes of vessels of 5m and over.

10. The length of the hyphen shall be half the height of the letters and numbers.
11. The width of the stroke for all letters, numbers and the hyphen shall be $h/6$.
12. The space between letters and/or numbers shall not exceed $h/4$ nor be less than $h/6$.
13. The space between adjacent letters having sloping sides shall not exceed $h/8$ nor be less than $h/10$, for example A V.
14. The marks shall be —
 - (a) white on a black background; or
 - (b) black on a white background.
15. The background shall extend to provide a border around the mark of not less than $h/6$.
16. The marks and background shall be maintained in good condition at all times.

ENDNOTE

ENDNOTES

¹ G 5/1995