

1963/196



THE COMMERCIAL FISHING REGULATIONS 1963

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 18th day of November 1963

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Fisheries Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Commercial Fishing Regulations 1963.

(2) These regulations shall come into force on the 1st day of January 1964.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Amendment Act” means the Fisheries Amendment Act 1963:

“The principal Act” means the Fisheries Act 1908:

“Boat-fishing permit” means a permit issued under section 10 of the Amendment Act:

“Fish” does not include salmon or trout or whitebait, but, save as aforesaid, includes every description of fish found in New Zealand waters, and their young, or fry, or spawn:

“Fishery officer” means an officer appointed under Part I of the principal Act:

“Fishing” means taking any fish or shellfish for purposes of sale; and “to fish” has a corresponding meaning:

“Fishing boat” or “boat” includes every vessel of whatever size and however propelled which is used in fishing for purposes of sale. Every small boat carried on or attached to a fishing boat shall be deemed to form part of that fishing boat in the circumstances specified in subsection (2) of section 4 of the Amendment Act, but shall otherwise be deemed to be a separate fishing boat for the purposes of these regulations:

“Fishing-method fee” means the fee payable pursuant to section 10 or section 11 of the Amendment Act in respect of each method by which fish are to be taken in any year:

“Fishing permit” or “permit” means a boat-fishing permit or shore-fishing permit, as the case may require:

“Master”, in relation to any fishing boat, means any person for the time being having command or charge of the boat:

“Minister” means the Minister of Marine:

“Owner”, in relation to any fishing boat, includes any body of persons, whether incorporated or not, by which the boat is owned:

“Port or place of domicile”, in relation to any fishing boat, means the port or place at which the boat is based and from which fishing is substantially carried out, as specified in the boat-fishing permit for the time being in force in respect of that boat; and “domiciled” has a corresponding meaning:

“Port or place of registry”, in relation to a registered fishing boat, means the port or place at which the fishing boat is registered under Part I of the Amendment Act:

“Prescribed form” means a form provided for the purpose by the Secretary:

“Registered”, in relation to any boat, means registered as a fishing boat under the provisions of Part I of the Amendment Act; and “registration” has a corresponding meaning:

“Secretary” means the Secretary for Marine appointed under the Shipping and Seamen Act 1952; and includes his deputy:

“Sell” means to dispose of for money or other valuable consideration, or by barter; and includes offering and exposing for sale, or sending or delivering for sale; and “sale” has a corresponding meaning:

“Shellfish” includes every description of molluscs, crustaceans, and echinoderms found in New Zealand waters, and their young or spawn; but does not include rock-oysters or toheroa:

“Shore-fishing permit” means a permit issued under section 11 of the Amendment Act:

“Superintendent” means a Superintendent of Mercantile Marine appointed under the Shipping and Seamen Act 1952; and includes any other officer discharging the duty of a Superintendent of Mercantile Marine; and, in relation to any fishing boat, means the Superintendent at the port or place of registry of the fishing boat:

“Take” and all references thereto—

(a) Include taking, catching, killing, or pursuing by any means or device; and

(b) In relation to shellfish or oysters, also include their removal or extraction or separation from the bed of the sea or of any tidal waters; and

(c) Also include the attempt to take:

“Year” means a period of 12 months ending with the 31st day of December.

PART I—REGISTRATION OF FISHING BOATS

3. Ports and places for registration—(1) The ports or places specified in the first column of the Schedule to these regulations shall be ports or places for the registration of fishing boats.

(2) The letters specified in the second column of that Schedule shall be the distinguishing letters for those ports or places respectively.

4. Registers—The Superintendent at each port or place of registry shall maintain a register of fishing boats in a form required by the Secretary.

5. Application for registration—(1) The owner of any fishing boat seeking registration thereof shall make application in that behalf to the Superintendent at the port or place at which the boat is domiciled, or at the nearest port or place as specified in the Schedule to these regulations.

(2) Every such application shall be in the prescribed form, and shall be accompanied by the fee prescribed by regulation 13 of these regulations.

6. Registration of fishing boats—(1) The Superintendent, upon receipt of any application for registration of any fishing boat, and upon his being satisfied that the Amendment Act, the principal Act, and these regulations have been complied with in all relevant particulars, shall enter in the register the name of the boat and such other particulars as the form of the application and register requires.

(2) The Superintendent shall thereupon assign to the boat a registered distinguishing mark, which shall consist of the letters indicating the port or place of registry (as specified in the Schedule to these regulations), followed by the number of the entry relating to the boat in the register.

(3) Every fishing boat so registered shall, so long as the registration thereof continues in force, be deemed a registered fishing boat.

7. Certificate of registry—Upon completion of registration as aforesaid, the Superintendent shall issue to the owner of the fishing boat a certificate of registry in the prescribed form.

8. Change of name of boat—(1) After registration, no change shall be made in the name of any fishing boat without the authority in writing of the Secretary granted upon the written application of the owner, and upon the Secretary being satisfied that the application is made on reasonable, sufficient, and proper grounds.

(2) The Superintendent shall, upon that written authority being produced to him, enter the new name in the register and in the certificate of registry. The former name shall be struck through without obliteration, and the new name shall be boldly written or printed immediately above or alongside:

Provided that if the boat is registered under the Shipping and Seamen Act 1952 or the registration thereof continues in force under that Act, her name shall not be altered except in accordance with the provisions of that Act.

9. Cancellation of registration—Where the registration of any fishing boat is cancelled pursuant to section 7 of the Amendment Act or is deemed to have been cancelled pursuant to section 9 of that Act, the owner shall forthwith deliver to the Superintendent the certificate of registry for that boat or satisfactorily account to the Superintendent for that certificate.

10. Marking of registered fishing boats—(1) The owner of a registered fishing boat shall, within seven days after the registration of the boat, and in every case before the boat is used in fishing, paint or cause to be painted thereon the registered name of the boat and the name of the port or place of registry, in white oil colour on a black ground or in black oil colour on a white ground, on the stern of the boat in letters not less than 6 in. in height and $\frac{3}{4}$ in. in breadth.

(2) The owner of a registered fishing boat shall, within seven days after the registration of the boat, and in every case before the boat is used in fishing, mark or cause to be marked thereon in accordance with the requirements set out in subclause (4) of this regulation the registered distinguishing mark consisting of the letter or letters and the number assigned to her in the register and appearing in the certificate of registry.

(3) The owner of a registered fishing boat shall not mark or show thereon any names, letters, or numbers other than such as are prescribed by this regulation.

(4) The requirements referred to in subclause (2) of this regulation are the following:

- (a) The letters shall precede the number, and both letters and figures shall be not less than 6 in. in height and $\frac{3}{4}$ in. in breadth, except in the cases provided for in paragraphs (e) and (f) of this subclause:
- (b) The letters and numbers shall be placed on each bow of the boat so as to be clearly visible, the tops of the letters and numbers to be from 3 in. to 4 in. below the gunwale:
- (c) The letters and numbers shall be painted in white oil colour on a black ground or in black oil colour on a white ground, whichever ground colour produces the greatest contrast with the colour of the hull or funnel, as the case may be:
- (d) In all cases the letters and figures shall be of the same height, and each letter shall be separated from the next following letter by a space equal to a third of the height of the letters, and each figure forming the number shall be separated from the next following figure by the same space, and the letters shall be separated from the number by twice the same space:
- (e) In the case of steamers or other vessels carrying a funnel, the said letters and numbers shall, in addition to being marked on each bow, be marked on the funnel 12 in. from the top and as far as possible on the foremost half thereof in letters and figures not less than 9 in. in height and 1 in. in breadth:
- (f) In the case of boats where the depth between gunwale and water line is not sufficient to permit the marking of letters and numbers of the dimensions and spacing prescribed by this regulation, the letters, numbers, and spaces may be reduced in size accordingly, but not to a size smaller than the greatest size which the space available permits.

(5) The owner of a registered fishing boat shall at all times keep the registered name, the name of the port or place of registry, and the letters and numbers marked thereon in a clearly legible condition and shall re-mark or repaint them when necessary for this purpose.

(6) No person shall efface, alter, make illegible, cover, or conceal in any manner whatsoever the name, letters, or numbers marked or painted on any registered fishing boat or on any small boat carried on or attached to and forming part of any registered fishing boat.

11. Removal of marks upon boat ceasing to be registered—The owner of a fishing boat shall, within seven days after the boat ceases to be registered from any cause whatever, remove therefrom, and from every small boat carried on or attached to and forming part of the fishing boat, all registered marks, letters, and numbers.

12. Marking of small boats carried by fishing boats—The owner of a registered fishing boat shall cause every small boat which is carried on or attached to the fishing boat and which, pursuant to subsection (2) of section 4 of the Amendment Act, is deemed to form part of the fishing boat, to be marked with the registered name and port or place of registry of the fishing boat and the registered distinguishing marks of the fishing boat in the manner prescribed in regulation 10 of these regulations, prefixed by the words "Tender to".

13. Registration fees—(1) The fees payable in respect of registration of a fishing boat and the issue of duplicates thereof shall be as follows:

	£	s.	d.
(a) Boat of 40 ft or less overall length	2	0	0
(b) Boat exceeding 40 ft but not exceeding 70 ft overall length	5	0	0
(c) Boat exceeding 70 ft overall length	10	0	0
(d) Issue of any duplicate	0	10	0

(2) For the purposes of these regulations, the overall length of a boat shall be the length as determined by a Surveyor of Ships or a fishery officer, measuring the boat from the forward side of the head of the stem to the extreme after-end of the boat.

PART II—FISHING PERMITS

Boat-fishing Permits

14. Boat-fishing permits—(1) The Superintendent at the port or place of registry of the fishing boat, upon receipt of an application by the owner of a registered fishing boat for a boat-fishing permit in respect of that boat, and upon being satisfied that the Amendment Act, the principal Act, and these regulations have been complied with in all relevant particulars, shall issue to the owner a boat-fishing permit in the prescribed form specifying the port of domicile or landing place and the method or methods by which fish or shellfish may be taken from that boat during the year to which the permit relates.

(2) Every application for a boat-fishing permit shall be in the prescribed form, and shall be accompanied by the appropriate fishing-method fee or fees prescribed by regulation 15 of these regulations.

15. Fees for boat-fishing permits—(1) The fees payable in respect of boat-fishing permits and the issue of duplicates thereof shall be as follows:

(a) Boat of 40 ft or less overall length—			
Lines or set-net or drag-net, or a combination of those methods	£	s.	d.
Mussel dredge or scallop dredge, or both	5	0	0
Oyster dredge	20	0	0
Any other method, for each method	5	0	0
(b) Boat exceeding 40 ft but less than 70 ft overall length—			
Lines or set-net or drag-net, or a combination of those methods	10	0	0
Mussel dredge or scallop dredge, or both	10	0	0
Oyster dredge	20	0	0
Any other method, for each method	10	0	0
(c) Boat 70 ft or more overall length—			
Lines or set-net or drag-net, or a combination of those methods	10	0	0
Mussel dredge or scallop dredge, or both	20	0	0
Oyster dredge	20	0	0
Any other method, for each method	20	0	0
(d) Issue of any duplicate	0	10	0

(2) For the purposes of this regulation, the overall length of a boat shall be ascertained in the manner provided in subclause (2) of regulation 13 of these regulations.

Shore-fishing Permits

16. Shore-fishing permits—(1) The Superintendent, upon receipt of an application by any person for a shore-fishing permit, and upon being satisfied that the Amendment Act, the principal Act, and these regulations have been complied with in all relevant particulars, shall issue to the applicant a shore-fishing permit in the prescribed form specifying the method or methods that may be used by the applicant during the year to which the permit relates for the taking of fish or shellfish for sale (otherwise than from a boat).

(2) Every such application shall be made to the Superintendent at or nearest to the port or place where the applicant resides or, where the applicant is a company, where the registered office of the company is situated, and shall be made in the prescribed form and be accompanied by the fishing-method fee prescribed by regulation 17 of these regulations.

17. Fees for shore-fishing permits—The fees payable in respect of shore-fishing permits and the issue of duplicates thereof shall be as follows:

		£	s.	d.
(a) For each method of fishing	5	0 0
(b) For the issue of any duplicate	0	10 0

18. Conditions of shore-fishing permits—There shall be implied in every shore-fishing permit a condition that the holder shall comply with any restrictions as to quantities, places or waters, or size of shellfish specified in the permit and with any variation of those restrictions imposed, by notice in writing to the holder, by the Superintendent at the port or place where the permit was issued.

Provisions Applying to Fishing Permits Generally

19. Additional fishing methods—Every application, pursuant to subsection (1) of section 14 of the Amendment Act, by the holder of a fishing permit for a permit authorising him to take fish or shellfish by any method or methods not specified in the first-mentioned permit shall be made in the prescribed form to the Superintendent at the port or place where that permit was issued, and shall be accompanied by the current permit and the fishing-method fee or fees prescribed in respect of that method or those methods by regulation 15 or regulation 17 of these regulations, as the case may require.

20. Issue and expiry of permits—(1) A fishing permit for any year may be issued at any time after the 7th day of December of the immediately preceding year.

(2) Every fishing permit shall expire with the 31st day of December of the year in respect of which it is issued.

PART III—MISCELLANEOUS PROVISIONS

21. Issue of duplicate certificate of registry or fishing permit—(1) On proof to his satisfaction that any certificate of registry or fishing permit, or any duplicate thereof previously issued, has been lost or destroyed or so damaged as to become illegible, and in the last-mentioned case on the surrender thereof to the Superintendent, the Superintendent may issue a duplicate thereof, which shall be enfaced in bold characters as follows:

“This document is a duplicate copy only, issued to replace the original declared to have been lost (destroyed) (so damaged as to become illegible).

“Date of issue of duplicate:.....”

“Signature of Superintendent:.....”

(2) Application for any such duplicate shall be made in the prescribed form by the owner of the fishing boat, or, as the case may be, the holder of the permit, to the Superintendent at the port or place where the certificate or permit was issued, and shall be accompanied by the prescribed fee.

(3) Every duplicate certificate of registry or fishing permit shall have all the effect of the original.

22. Returns of fish and shellfish taken—(1) The owner of every registered fishing boat and the holder of a shore-fishing permit shall, within 14 days after the end of each month, forward to the Secretary, or to such other officer of the Marine Department as the Secretary directs, a return in the prescribed form of all fish and shellfish taken from the boat or, as the case may be, by the holder of the permit during that month or, if no fish or shellfish have been taken during that month, a “nil” return.

(2) Where any such return is made by an agent, it must be countersigned by the owner of the fishing boat or, as the case may be, the holder of the permit.

(3) Where the catch, or part thereof, is landed from any fishing boat at a port or place other than the port or place specified in the boat-fishing permit, the master shall furnish immediately to the nearest Superintendent a separate return, in the prescribed form, of the fish and shellfish landed.

(4) Where permission has been granted under section 16 of the Amendment Act for the transfer of fish or shellfish to another vessel, the master of the vessel landing the fish or shellfish shall furnish a separate return immediately to the nearest Superintendent, in the prescribed form, of the fish or shellfish landed.

(5) Where the owner of a registered fishing boat ceases for any reason to use his boat for taking fish or shellfish for the purposes of sale, he shall, within 14 days after so ceasing, forward to the Secretary, or to such other officer of the Marine Department as the Secretary directs, a return in the prescribed form of all fish and shellfish taken from the boat during the period from the end of the month for which the last return was made to the date on which the boat so ceased to be used, or, if no fish or shellfish were so taken during that period, a “nil” return stating the reasons why no fish or shellfish were so taken during that period.

(6) Every person commits an offence against these regulations who makes or countersigns any return under this regulation which contains any statement that is false or misleading in any material particular.

23. Change of address to be notified—(1) Every application for registration of a fishing boat or for a fishing permit shall specify the address of the applicant to which notices may be sent for the purposes of these regulations.

(2) Forthwith after any change of address of the owner of a registered fishing boat or of the holder of a fishing permit, he shall give notice in writing thereof to the Superintendent at the port or place of registry of the fishing boat or, as the case may be, at the port or place where the permit was issued.

24. Service of notices—(1) Every notice required by these regulations to be given to the owner of a fishing boat or to the holder of a fishing permit may be given by delivering it to him personally or, in the case of a company, by leaving it at the registered office of the company with some person appearing to be in charge of the business of the company at that office, or may be sent to him by registered post addressed to him at the address shown in his application for registration or for a permit or, as the case may be, at the address shown in the last notification received by the Superintendent under regulation 23 of these regulations.

(2) A notice so posted shall be deemed to have been given at the time when the registered letter would in the ordinary course of post be delivered.

25. False or misleading statement—Every person commits an offence against these regulations who, in any application for registration of a fishing boat or for a fishing permit or for a duplicate of a certificate of registry or fishing permit, or in support of any such application, makes any statement, written or oral, or concurs in any written or oral statement made by any other person, which is false or misleading in any material particular.

26. Altering certificate of registry or fishing permit—No person, other than a Superintendent, shall alter, make illegible, or deface any certificate of registry of a fishing boat or any fishing permit, or any duplicate thereof.

27. Transfer of catch—(1) No fish or shellfish shall be transferred from a registered fishing boat to another vessel (whether a fishing boat or not) in any case where the consent of a Superintendent or a fishery officer to the transfer is required pursuant to section 16 of the Amendment Act, unless the fish or shellfish is transferred and kept in containers, each of which is clearly marked so as to identify the fishing boat from which the fish or shellfish was transferred and the date of the transfer.

(2) Where fish or shellfish is transferred in breach of the provisions of subclause (1) of this regulation, the master of the fishing boat from which the fish or shellfish was transferred and the master of the vessel to which it was transferred each commits an offence against these regulations.

28. Explosives not to be carried—(1) No explosives within the meaning of the Explosives Act 1957 shall be carried on any registered fishing boat without the written consent of the Superintendent.

(2) If any explosives are carried on any fishing boat in breach of the provisions of subclause (1) of this regulation the owner and the master of the boat each commits an offence against these regulations.

29. Use of underwater breathing apparatus prohibited—(1) No person shall use underwater breathing apparatus for the purpose of taking fish or shellfish for the purposes of sale.

(2) The master of a registered fishing boat shall not carry on board any underwater breathing apparatus or permit any underwater breathing apparatus to be used therefrom.

30. Offences—Every person commits an offence against these regulations who, without lawful justification or excuse (proof of which justification or excuse shall lie on him), does any act in contravention of these regulations or fails to comply with any provision of these regulations or with any condition expressed or implied in any fishing permit.

31. Penalty for offences—Every person who commits an offence against these regulations is liable on summary conviction to a fine not exceeding £50.

32. Revocation—The Sea Fisheries (Boats and Licences) Regulations 1951* are hereby revoked.

*S.R. 1951/147

Reg. 3

SCHEDULE

PORTS AND PLACES OF REGISTRY

Ports and Places of Registry	Distinguishing Letters	Application for Registration or a Fishing Permit in the Areas Below are to be Furnished to the Superintendent at the Port Shown in the First Column
Auckland ..	AK	The east coast from Cape Brett to Cape Colville and the west coast from Kaipara Harbour entrance to Tirau Point
Bluff	BF	South of a line from Yates Point to Nugget Point
Chatham Islands ..	CHM	Chatham Islands
Dunedin	DN	Lookout Bluff to Nugget Point
Gisborne	GS	East Cape to Kopuawhara near Mahia Peninsula
Greymouth	GMH	Perpendicular Point to Yates Point
Kaipara	KPA	South Head at the entrance to Hokianga Harbour (but excluding Hokianga Harbour) to and including Kaipara Harbour
Lyttelton	LN	Cape Campbell to the north bank of the Rangitata River
Napier	NR	Kopuawhara, near Mahia Peninsula, to Cape Turnagain
Nelson	NN	Alligator Head to Kahurangi Point
New Plymouth	NPH	Tirau Point to and including Manutahi
Oamaru	OMU	The north bank of the Waitaki River to Lookout Bluff
Picton	PN	Alligator Head to Cape Campbell
Russell	RL	Cape Brett to and including Hokianga Harbour
Tauranga	TA	Cape Colville to East Cape
Timaru	TU	The north bank of the Rangitata River to the north bank of the Waitaki River
Wanganui	WGN	From but excluding Manutahi to the south bank of the Turakina River
Wellington	WN	From the south bank of the Turakina River to Cape Turnagain
Westport	WT	Kahurangi Point to Perpendicular Point

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations replace the Sea Fisheries (Boats and Licences) Regulations 1951, and are intended to implement the provisions of Part I of the Fisheries Amendment Act 1963, which abolished the licensing system and provided for the issue of boat-fishing permits and shore-fishing permits to persons taking fish or shellfish for the purposes of sale.

The principal provisions of the regulations are as follows:

- (a) Part I prescribes the procedure for the registration of fishing boats, as required by sections 5 to 9 of the Fisheries Amendment Act 1963.
- (b) Part II prescribes the procedure for the issue of boat-fishing permits and shore-fishing permits, and fixes the fishing-method fees payable in respect of those permits.
- (c) Part III contains miscellaneous provisions, Regulation 22 requires returns to be made of fish and shellfish taken, and regulation 29 prohibits the use of underwater breathing apparatus for the purpose of taking fish or shellfish for the purposes of sale.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 28 November 1963.

These regulations are administered in the Marine Department.