

**Serial Number 1950/50**

**THE COOK ISLANDS PEARL-SHELL FISHERIES  
REGULATIONS 1950**

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 4th day of  
April, 1950

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Cook Islands Act, 1915, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

PART I—PRELIMINARY

1. These regulations may be cited as the Cook Islands Pearl-shell Fisheries Regulations 1950.

2. Regulations 9 and 10 hereof and the definition of the terms "fishing reserve" and "reserve" in Regulation 3 hereof shall be in force in the Island of Niue, but the other provisions of these regulations shall not be in force in that island.

3. In these regulations, unless the context otherwise requires,—

"Fishing reserve" and "reserve" mean one of the fishing reserves constituted by these regulations :

"Season" means a period of time commencing on the 1st day of January and expiring on the 31st day of December in each year :

"Resident Agent", in relation to any fishing reserve, means the Resident Agent for the island where the fishing reserve is situate :

"Resident Commissioner" means the Resident Commissioner of Rarotonga.

4. The regulations mentioned in the First Schedule to these regulations are hereby revoked.

5. All acts of authority and other acts and all documents, matters, and things and all periods of time which originated or had effect under the regulations hereby revoked and are subsisting or in force or continuing when these regulations come into force shall enure for the purposes of these regulations as if they had originated under these regulations, and shall, where necessary, be deemed to have so originated.

6. Any power conferred by these regulations upon an Island Council may be exercised by the Resident Commissioner.

7. The following areas are constituted fishing reserves for the purposes of these regulations and shall be known by the names hereby assigned to them :—

(a) The lagoon at the Island of Manihiki, to be known as the Manihiki Reserve :

- (b) That part of the lagoon at the Island of Penrhyn which lies to the north of a straight line drawn east and west so as to divide the lagoon into halves, to be known as the Penrhyn Northern Reserve :
- (c) That part of the lagoon at the Island of Penrhyn which lies to the south of the line aforesaid, to be known as the Penrhyn Southern Reserve.

## PART II—GENERAL RESTRICTIONS

8. No person shall take from a fishing reserve any pearl-shell having a diameter of less than  $4\frac{1}{2}$  in. measured along its greatest axis.

9. No person shall sell or purchase in or export from any part of the Cook Islands any pearl-shell which is taken from a fishing reserve and has a diameter of less than  $4\frac{1}{2}$  in. measured along its greatest axis.

10. Where any person in the Cook Islands has in his possession, or sells, purchases, or exports any pearl-shell having a diameter of less than  $4\frac{1}{2}$  in. measured along its greatest axis, that pearl-shell shall, in the absence of proof to the contrary, be deemed to have been taken from a fishing reserve.

11. Every person taking any pearl-shell shall forthwith open the same on the lagoon from which it was taken and shall forthwith return to the water any spawn contained in the shell.

12. No person shall fish for pearl-shell or pipi-pearls in any fishing reserve, whether by naked diving or by using a diving-machine, unless he is the holder of a current licence issued under these regulations authorizing him to fish and dive for pearl-shell or pipi-pearls, as the case may be, in that fishing reserve.

13. No person shall use a diving-machine in any fishing reserve unless he is the holder of a current licence issued under these regulations authorizing him so to do.

14. No person shall use a diving-machine in any fishing reserve unless he is the holder of a current licence authorizing him to use that diving-machine in that reserve.

## PART III—LICENCES

15. Every licence to fish and dive for pearl-shell or pipi-pearls shall be in force from the date on which it is issued or the 1st day of January in the year in respect of which it is issued (whichever is the later) until and including the 31st day of December in the year in respect of which it is issued.

16. Every licence to fish and dive for pearl-shell or pipi-pearls in a reserve in any island shall be issued by the Resident Agent for that island and shall be in the form numbered 1 in the Second Schedule hereto.

17. No licence to fish and dive for pipi-pearls in a Penrhyn reserve shall be issued to any person except—

- (a) A person who is a Native of the Island of Penrhyn ; or
- (b) A person who is a British subject by birth or naturalization ;  
or
- (c) A person who is a Native within the meaning of the Cook Islands Act, 1915, and is married to a Native of the Island of Penrhyn and to whom the issue of a licence has been approved by resolution of the Island Council of Penrhyn.

18. Any person desiring to use a diving-machine in a fishing reserve shall make written application in that behalf to the Resident Agent.

19. Every licence to use a diving-machine in a reserve in any island shall be issued by the Resident Agent for that island and shall specify the diving-machine in respect of which it was issued and shall be in the form numbered 2 in the Second Schedule hereto.

20. The Resident Agent may, in his discretion, refuse to grant a licence to use a diving-machine to any individual who is not a British subject by birth, or to any corporate body the members of which are not all British subjects by birth or which has a domicile outside His Majesty's dominions.

21. Not more than one licence shall be granted to one person or firm for the use of diving-machines in any particular reserve.

22. If at any time six licences for the use of a diving-machine in any reserve are in force, no further licence shall be granted for the use therein of a diving-machine.

23. Any person desiring a licence for the use of a diving-machine who is unable to obtain a licence by reason of the fact that six licences are in force for the use of diving-machines in the reserve for which he seeks a licence may by information apply to the High Court for an order revoking any licence then in force on the ground that the holder thereof is not making reasonably full use of the rights thereby conferred, and the High Court may by order declare that such licence is revoked.

24. If upon information laid by any person it is proved to the satisfaction of the High Court that the holder of any licence issued under these regulations has obtained the same by fraud, misrepresentation, or mistake, or has acted in an improper manner in exercising the rights thereby conferred, the High Court may by order declare that such licence is revoked.

25. Upon conviction of the holder of a licence for any offence against these regulations the High Court may by order declare that his licence is revoked.

26. Upon the making by the High Court of an order declaring that any licence is revoked, such licence shall forthwith be void and cease to have any effect for the purposes of these regulations, and the holder thereof shall forthwith, unless prevented by circumstances outside his control, surrender the same to the Resident Agent to be cancelled, but failure so to surrender the licence shall not affect the revocation thereof.

27. Every licence granted to fish and dive for pearl-shell or pipi-pearls shall be available only for the personal use of the individual to whom it is granted, and no licence shall be transferable or pass by operation of law to any other person.

28. Every licence to use a diving-machine shall be available for the person to whom it is granted and for his servants and agents being holders of a current licence to fish and dive for pearl-shell or pipi-pearls, but not further or otherwise, and shall not be transferable, but may pass by operation of law to any other person.

## PART IV—OPEN AND CLOSE SEASONS

**29.** Subject as hereinafter appears, it shall be lawful to use a diving-machine in the following reserves at the following times, but at no other times :—

- (a) In the Penrhyn Southern Reserve during the season of 1950 :
- (b) In the Penrhyn Northern Reserve during the season of 1951 :
- (c) In the Manihiki Reserve during the season of 1952,—

and thereafter in the same rotation.

**30.** The Resident Commissioner may, by public notice, declare that it shall be lawful to use a diving-machine in any particular reserve at any time other than the times specified in Regulation 29 hereof, and may specify in such notice the period during which it shall be lawful to use a diving-machine in any such reserve.

**31.** The Island Council of any island in which a fishing reserve is situated may from time to time, by resolution publicly notified, fix a close season or seasons for pearl-shell fishing for the whole or any part of such reserve :

Provided that no such resolution shall make unlawful the use of a diving-machine pursuant to a notice given under Regulation 30 hereof.

**32.** The Island Council of Penrhyn may from time to time by resolution publicly notified fix a close season or seasons for pipi-pearl fishing in the Penrhyn Northern Reserve and the Penrhyn Southern Reserve or either of them or any defined portion of both or either of them :

Provided, first, that no such close season or seasons shall, in respect of any part of the Penrhyn Lagoon, exceed in the aggregate six months in any one calendar year :

Provided, secondly, that no such resolution shall make unlawful the use of a diving-machine pursuant to a notice given under Regulation 30 hereof.

**33.** Every resolution of an Island Council made in terms of Regulation 31 or Regulation 32 hereof shall be submitted to the Resident Commissioner, and the Resident Commissioner may disapprove the same, and thereupon from the time when such disapproval is publicly notified by the Resident Agent such resolution shall cease to have any effect for the purposes of these regulations.

**34.** Notwithstanding anything to the contrary in any licence, but subject to Regulation 30 hereof, during a close season for pearl-shell fishing or pipi-pearl fishing fixed by resolution of an Island Council no person shall fish for pearl-shell or pipi-pearls (as the case may be) in any fishing reserve or (as the case may be) any portion of a fishing reserve to which the resolution relates whether by naked diving or by using a diving-machine or otherwise.

**35.** In order that the shallower parts of reserves may be reserved for naked diving, the Resident Agent may from time to time direct the holder of a licence to use a diving-machine that he shall not use the machine in water of less than a specified depth, and may from time to time review any such direction and withdraw the same and issue a fresh direction.

**36.** No licensee and no servant or agent of a licensee shall use a diving-machine in breach of a direction given to the licensee under the last preceding regulation.

## PART V—LICENCE FEES

37. The following fees shall be payable to the Resident Agent for licences and shall be paid before the licence is issued and shall form part of the public revenue of the Cook Islands:—

- (a) For a licence to fish and dive for pearl-shell or pipi-pearls granted to a Native of the island in which the fishing reserve is situated, no fee:
- (b) For a licence to fish and dive for pipi-pearls in a Penrhyn reserve granted to a person other than a Native of Penrhyn, £3:
- (c) For a licence to fish and dive for pearl-shell granted to any other person, £1:
- (d) For a licence to use a diving-machine, £20.

38. The Resident Agent shall have power to decide whether any person is for the purposes of these regulations a Native of any island or a Native within the meaning of the Cook Islands Act, 1915, and his decision shall be final.

## PART VI—PENALTIES

39. Any person who fails to comply with or acts in contravention of any of these regulations commits an offence and shall be liable upon conviction to a fine not exceeding £20.

## PART VII—JURISDICTION OF THE HIGH COURT

40. A Commissioner of the High Court may exercise any of the powers conferred on the High Court by these regulations.

## SCHEDULES

FIRST SCHEDULE  
REGULATIONS REVOKED

Short Title.	Published in <i>Gazette</i> .	
	Year.	Page.
The Cook Islands Pearl-shell Fisheries Regulations 1921	1921	496
The Cook Islands Pearl-shell Fisheries Regulations Amendment 1928	1928	2275
The Cook Islands Pearl-shell Fisheries Regulations Amendment 1930	1930	660
The Cook Islands Pearl-shell Fisheries Regulations Amendment 1936	1936	1158
	Published in Statutory Regulations.	
	Serial Number.	Page.
The Cook Islands Pearl-shell Fisheries Regulations Amendment 1941	1941/20	37

## SECOND SCHEDULE

(Form No. 1)

## LICENCE TO FISH AND DIVE FOR PEARL-SHELL OR PIPi-PEARLS

..... *Fishing Reserve*

....., of ..... [having paid the prescribed fee] (*In the case of a licence for which no fee is payable these words will be deleted*), is hereby licensed to fish and dive for pearl-shell [and pipi-pearls] within the ..... Fishing Reserve during the year 19.., subject to the regulations for the time being in force relating to pearl-shell fisheries in the Cook Islands.

Dated this ..... day of ....., 19..

.....  
Resident Agent.

Fee paid : £.....

(Form No. 2)

## LICENCE FOR A DIVING-MACHINE

..... *Fishing Reserve*

....., of ....., having paid the prescribed fee, is hereby licensed to use diving-machine No. [*identifying it*] within the ..... Fishing Reserve during the year ....., subject to the regulations for the time being in force relating to pearl-shell fisheries in the Cook Islands.

Dated this ..... day of ....., 19..

.....  
Resident Agent.

Fee paid : £20.

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

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Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 5th day of April, 1950.

These regulations are administered in the Department of Island Territories.