



**THE FISHERIES (LICENSED FISH RECEIVERS) REGULATIONS
1986, AMENDMENT NO. 5**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 29th day of August 1994

Present:

THE HON. DOUG KIDD PRESIDING IN COUNCIL

PURSUANT to section 89 of the Fisheries Act 1983, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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| 1. Title and commencement | | 6. Grant of fish receiver's licence |
| 2. Interpretation | | 7. Certificates of recognition |
| 3. Director-General may require information from applicant | | 7A. Obligations on licence holders |
| 4. New regulations substituted | | 5. Duration of licences and certificates |
| | | 6. Revocation of licences and certificates |
| | | 7. Fees |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Fisheries (Licensed Fish Receivers) Regulations 1986, Amendment No. 5, and shall be read together with and deemed part of the Fisheries (Licensed Fish Receivers) Regulations 1986* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of October 1994.

2. Interpretation—Regulation 2 of the principal regulations is hereby amended by adding the following definitions:

“Premises” means any premises or location at which—

“(a) Fish is received from commercial fishermen or processed or distributed; and

“(b) Unloading documents, purchase invoices, and any other records required by the Fisheries (Recordkeeping) Regulations 1990 are kept or required to be kept:

“‘Source documents’, in relation to the operations of any person or entity, means the original records of any transaction that occurs between that person or entity and any third party, or that occurs within the internal operations of that person or entity.”

3. Director-General may require information from applicant—Regulation 5 (1) of the principal regulations is hereby amended by revoking paragraph (c), and substituting the following paragraph:

“(c) Demonstrates that the source documents, accounting records, and systems, that are to be used by the applicant, meet the requirements of the Fisheries (Recordkeeping) Regulations 1990.”

4. New regulations substituted—The principal regulations are hereby amended by revoking regulations 6 and 7, and substituting the following regulations:

“6. Grant of fish receiver’s licence—(1) The Director-General shall, on payment of the fee specified in or under regulation 12 of these regulations, issue a fish receiver’s licence to an applicant under regulation 4 (1) of these regulations if—

“(a) The applicant has produced all, or in the opinion of the Director-General, a sufficient amount of the information required under regulation 5 of these regulations; and

“(b) The Director-General is satisfied that the applicant is operating or intends to operate a fish receiving business.

(2) After consulting the applicant, the Director-General may impose on any licence issued to the applicant under subclause (1) of this regulation such conditions relating to—

“(a) The location and type of fish receiving operations; and

“(b) The location and type of fish receiving premises; and

“(c) The quantity, species, or source of the fish received; and

“(d) The involvement in the operation of persons convicted of any offence involving or relating to fish,—

*S.R. 1986/190

Amendment No. 1: S.R. 1988/174

Amendment No. 2: (Revoked by S.R. 1991/160)

Amendment No. 3: S.R. 1990/215

Amendment No. 4: S.R. 1991/160

as the Director-General considers necessary to enable the Director-General to enforce the provisions of these regulations and to audit the operation for the purposes of ensuring compliance with those provisions.

“(3) Notwithstanding subclause (1) of this regulation, the Director-General shall not issue a fish receiver’s licence to any applicant where the Director-General is satisfied that—

“(a) The applicant or any person likely to be involved in the fish receiving operations has been convicted of any offence involving fish; or

“(b) The applicant or any person likely to be involved in the management of the fish receiving operations has been involved in the management of the fish receiving operations of a body corporate that has been convicted of any offence involving fish—

unless the Director-General is satisfied that the fish receiving operations will be conducted in a proper manner.

“(4) After consulting the holder of a fish receiver’s licence or certificate of recognition, the Director-General may, by notice in writing to the holder,—

“(a) Amend or revoke any conditions imposed on the licence or certificate; or

“(b) Impose on the licence or certificate any new conditions that could be imposed on a licence under subclause (2) of this regulation.

“7. **Certificates of recognition**—(1) All certificates of recognition that were issued before the 1st day of October 1994 and are current on that day shall, subject to these regulations, continue to have effect as a fish receiver’s licence.

“(2) No new certificates of recognition shall be issued on or after the 1st day of October 1994.

“(3) Every holder of a current certificate of recognition shall be deemed for the purposes of sections 67 and 67A and any other provision of the Act to be licensed under these regulations.

“7A. **Obligations on licence holders**—(1) The Director-General may require any holder of a fish receiver’s licence, and any holder of a certificate of recognition, to demonstrate that the source documents, accounting records, and systems being used by the holder meet the requirements of the Fisheries (Recordkeeping) Regulations 1990.

“(2) Every holder of a fish receiver’s licence, and every holder of a certificate of recognition, shall notify the Director-General of—

“(a) Any change of the address or location of any premises used by the holder, and the address or location of any additional premises used by the holder and any change thereof; and

“(b) Any conviction for any offence involving or relating to fish that is entered against—

“(i) The holder; or

“(ii) Any person employed in the fish receiving operations; or

“(iii) Any person involved in the management of the fish receiving operations—

during the currency of the licence or certificate.”

5. Duration of licences and certificates—The principal regulations are hereby amended by revoking regulation 9, and substituting the following regulation:

“9. Every fish receiver’s licence, and every certificate of recognition, shall continue to have effect until—

“(a) In the case of a certificate of recognition, the holder ceases to hold a current fish export licence or fish packing house licence; or

“(b) The licence or certificate is revoked by the Director-General or is surrendered; or

“(c) The close of the last day for payment of the fee payable under regulation 12 (2) of these regulations for renewal of the licence or certificate, where payment of the fee has not been made before the close of that day,—

whichever first occurs.”

6. Revocation of licences and certificates—(1) Regulation 10 (a) of the principal regulations is hereby amended by omitting the words “against any enactment relating to”, and substituting the word “involving”.

(2) Regulation 10 of the principal regulations is hereby amended by adding the expression “; or” and the following paragraph:

“(c) The holder has contravened or failed to comply with any condition imposed on the licence under regulation 6 (2) of these regulations.”

(3) Regulation 10 of the principal regulations are hereby amended by adding, as subclauses (2) to (4), the following subclauses:

“(2) In considering whether or not to revoke a licence or certificate under subclause (1) (a) of this regulation, the Director-General shall have regard to—

“(a) Whether the person convicted of the offence is involved in the management of the operations or is employed in some other capacity in or related to the operations; and

“(b) The nature and extent of the offending, and the implications thereof for the manner in which the operations are likely to be undertaken; and

“(c) Such other matters as the Director-General considers relevant.

“(3) In considering whether or not to revoke a licence or certificate under subclause (1) (b) of this regulation, the Director-General shall have regard to—

“(a) The nature of the change, and whether or not (in the case of a change in the circumstances of persons involved in the operations) the changed circumstances relate to a person involved in the management of the operations or employed in some other capacity in or related to the operations; and

“(b) Such other matters as the Director-General considers relevant.”

7. Fees—Regulation 12 of the principal regulations is hereby amended—

(a) By omitting from subclause (1) the words “or a certificate of recognition, or the renewal of such a licence or certificate”, and substituting the words “, or the renewal of a fish receiver’s licence or a certificate of recognition”:

- (b) By omitting from subclause (2) the words “or a certificate of recognition”, and substituting the words “; or the renewal of a certificate of recognition,”.

MARIE SHROFF,
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, which come into force on 1 October 1994, amend the Fisheries (Licensed Fish Receivers) Regulations 1986.

Regulation 2 inserts into the principal regulations a definition of the term “premises”.

Regulation 3 amends regulation 5 of the principal regulations to enable the Director-General to require an applicant for a licence to demonstrate that the applicant’s source documents, accounting records, and systems meet the requirements of the Fisheries (Recordkeeping) Regulations 1990.

Regulation 4 revokes regulations 6 and 7 of the principal regulations, and substitutes new regulations 6 to 7A.

New *regulation 6* specifies more particularly the matters to which conditions on a licence may relate and provides for the amendment or revocation of conditions on licences and the imposition of new conditions.

New *regulation 7* perpetuates existing certificates of recognition but prohibits the issue of any new certificates after 30 September 1994.

New *regulation 7A* imposes new obligations on the holders of licences or certificates. The new obligations are to produce evidence of compliance with the Fisheries (Recordkeeping) Regulations 1990 and to notify specified changes affecting the holder’s operations.

Regulation 5 revokes and replaces regulation 9 of the principal regulations. The principal change is that a licence or certificate will cease to have effect if the annual renewal fee is not paid by the due date.

Regulation 6 amends regulation 10 of the principal regulations. The principal changes are twofold. First, criteria are prescribed for the guidance of the Director-General when he or she is considering whether or not to revoke a licence or certificate. Secondly, a licence or certificate may be revoked if a condition on the licence or certificate is breached.

Regulation 7 effects a consequential amendment.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 1 September 1994.

These regulations are administered in the Ministry of Agriculture and Fisheries.