



THE WHALING INDUSTRY REGULATIONS 1961

COBHAM, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 20th day of September 1961

Present

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Whaling Industry Act 1935, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

PART I—PRELIMINARY

1. Title and commencement—(1) These regulations may be cited as the Whaling Industry Regulations 1961.

(2) These regulations shall come into force on the seventh day after the date of their notification in the *Gazette*.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Whaling Industry Act 1935:

“Baleen whale” means any whale other than a toothed whale:

“Blue whale” (*Balaenoptera musculus* or *Sibbaldus musculus*) means any whale known by the name of blue whale, Sibbald’s rorqual, or sulphur bottom:

“Fin whale” (*Balaenoptera physalus*) means any whale known by the name of common finback, common finner, common rorqual, finback, fin whale, herring whale, razor back, or true fin whale:

“Humpback whale” (*Megaptera nodosa* or *Megaptera novaeangliae*) means any whale known by the name of bunch, humpback, humpback whale, humpbacked whale, hump whale, or hunch-backed whale:

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

“Sei whale” means any whale known by the name of *Balaenoptera borealis*, sei whale, Rudolphi’s rorqual, pollack whale, or coal-fish whale; and includes Bryde’s whale (*Balaenoptera brydei*):

“Whaling licence” means a whaling-factory licence or whaling-ship licence, as the case may be:

“Whaling-factory licence” means any licence granted by the Minister pursuant to the Act authorising a factory or factories to be used for treating whales; and includes any licence granted authorising a ship or ships to be similarly used:

“Whaling-ship licence” means any licence granted by the Minister pursuant to the Act authorising a ship or ships to be used for taking whales.

- (2) These regulations shall apply only in relation to baleen whales.

PART II—LICENSING

3. Forms—(1) Every application for a whaling licence shall be made to the Secretary, and shall be in form 1 or form 2 in the Schedule to these regulations, as the case may require.

(2) Every whaling-factory licence shall be in form 3 in the Schedule to these regulations.

(3) Every whaling-ship licence shall be in form 4 in the Schedule to these regulations.

4. Fees for licences—The annual fee to be paid for a whaling licence shall be—

- (a) For a whaling-factory licence, £5:
- (b) For a whaling-ship licence, £5.

5. Conditions of licences—Every whaling licence granted shall be subject to the conditions required to be attached to the licence by the Act and also to the following conditions:

- (a) That the Minister or the Secretary or a Whale Fishery Inspector or any person authorised by the Minister or the Secretary may at all reasonable times enter upon the factory or upon the ship or ships and view the state of repair thereof, and, upon the Minister or the Secretary leaving at or posting to the last-known address of the licensee in New Zealand a notice in writing of any defect or want of repair in the factory or in any such ship requiring the licensee within a reasonable time, to be therein prescribed, to repair the same, the licensee shall with all reasonable speed cause the defect to be removed or the repairs to be made:
- (b) That adequate arrangements be made for utilising residual products:
- (c) That noxious or offensive matter from any whale shall not be permitted to escape or be discharged into any bay, gulf, harbour, or other water where it can constitute a nuisance or conditions likely to be injurious to health or offensive:
- (d) In the case of a whaling-factory licence, that the remuneration of persons employed in the factory, so far as it is calculated by reference to the results of their work, shall be calculated—
 - (i) By reference to the size, species, oil yield, and value of the whales treated, and not solely by reference to the number of whales treated; and
 - (ii) So as to exclude remuneration in respect of any whale which is of less than the minimum length prescribed by regulation 10 of these regulations, or the taking of which is prohibited by the Act:

- (e) In the case of a whaling-ship licence, that, in respect of any whale lost after harpooning, that fact and such data as is available shall be recorded in the manner specified in paragraph (a) of regulation 6 of these regulations.

6. Records to be kept—For the purpose of section 8 of the Act—

- (a) The manager or person in charge of a factory or the master of a ship shall record the information referred to in paragraph (a) of subsection (2) of the said section 8 (namely, the date and place of taking, the species, and sex of each whale treated, the measurements and biological information specified in paragraph (b) of this regulation, and the particulars specified in paragraph (c) of this regulation) in such a manner as to ensure that a permanent and continuous record is kept of all information required to be recorded. All information required to be recorded shall be recorded as soon as practicable after it becomes available. The entries shall be certified by the manager or person in charge of the factory or master of the ship:
- (b) The measurements and biological information to be recorded in respect of each whale treated shall be—
- (i) The date and time of killing and the identity of the catcher:
 - (ii) The date and time of hauling out for treatment:
 - (iii) The length measured pursuant to regulation 11 of these regulations:
 - (iv) The sex:
 - (v) If females, whether milk-filled or lactating and the length and sex of foetus, if present:
 - (vi) A full explanation of any breach of the Act or of these or any other regulations made pursuant to the Act which may have occurred:
- (c) Particulars as to the number of whales treated, the yield of oil of different grades therefrom, and the quantities of meal, guano, and other products derived therefrom shall be recorded:
- (d) A copy, certified to be correct by the licensee, of records required by the whaling licence to be kept shall be transmitted to the Secretary on or before the 1st day of December in each year with respect to whales treated during that year.

7. Licence not to derogate from Act—Nothing in any whaling licence shall in any manner derogate from the provisions of the Act or of these or any other regulations made under the Act, or from any provisions of the Shipping and Seamen Act 1952, the Harbours Act 1950, the Fisheries Act 1908, or any regulations made under any of those Acts.

8. Regulations not to restrict powers of Minister under Act—Nothing in these regulations shall be construed so as to take away or restrict the power of the Minister to attach any condition to any whaling licence that may be authorised by the Act.

9. Minister may refuse licence or permit—The Minister may refuse to grant licences and permits under the Act in his absolute discretion.

PART III—GENERAL

10. Minimum sizes—No person shall take or kill any blue, fin, sei, or humpback whale of less than the following lengths:

- | | | | |
|---------------------|-------|-------|----------------------|
| (a) Blue whales | | | 70 ft (21·3 metres): |
| (b) Fin whales | | | 57 ft (17·4 metres): |
| (c) Sei whales | | | 40 ft (12·2 metres): |
| (d) Humpback whales | | | 35 ft (10·7 metres): |

Provided that blue whales of not less than 65 ft (19·8 metres), fin whales of not less than 55 ft (16·8 metres), and sei whales of not less than 35 ft (10·7 metres) in length may be taken for delivery to a land station if the meat of such whales is to be used for consumption in New Zealand as a human or animal food.

11. Measurement of length—For the purpose of these regulations whales shall be measured, when at rest on deck or platform, as accurately as possible by means of a steel tape measure fitted at the zero end with a spiked handle which can be stuck into the deck planking abreast of one end of the whale. The tape measure shall be stretched in a straight line parallel with the whale's body and read abreast the other end of the whale. The ends of the whale, for measurement purposes, shall be the point of the upper jaw and the notch between the tail flukes. Measurements, after being accurately read on the tape measure, shall be logged to the nearest foot, that is to say, any whale between 35 ft 6 in. and 36 ft 6 in. shall be logged as 36 ft, and any whale between 36 ft 6 in. and 37 ft 6 in. shall be logged as 37 ft. The measurement of any whale which falls on an exact half foot shall be logged at the next half foot, that is to say 36 ft 6 in. precisely, shall be logged as 37 ft.

12. Open season—No person shall take, kill, or treat any whale at any time other than during the period commencing on the 1st day of May of each year and ending with the 31st day of August of the same year (that period hereinafter being referred to as the open season and the period commencing on the 1st day of September and ending with the 30th day of April being hereinafter referred to as the close season):

Provided that—

- (a) The Minister may, in his discretion, if he is satisfied that weather or other circumstances have substantially hindered or prevented whaling operations during the open season, grant in writing extension of the season up to a date not later than the 31st day of October:
- (b) The process of disposing of a whale of any species that has stranded at any place shall not be deemed to be treating the whale:
- (c) It shall be lawful for any person to treat during the close season any whale which was lawfully taken in the open season.

13. Whales to be marked—The master of every whale catcher shall cause every whale taken by that catcher to be clearly marked so as to identify the catcher and to indicate the order of catching.

14. Delivery of whales to factory for processing—(1) The master of a whale catcher by which a whale is taken shall deliver the whale to a factory for processing or to a towing vessel for delivery to a factory for processing.

(2) The operator of a factory to which any whale is delivered shall process, by boiling or otherwise, all parts of the whale except the internal organs, the whalebone, the flippers, and the parts intended for food.

15. Taking of whales to be regulated to permit early treatment—The master of every whale catcher shall so regulate or restrict the taking of whales by that catcher that no whale taken shall remain untreated for a period longer than 33 hours.

16. Disposal of waste—The operator of every factory shall make adequate provision for the prompt and efficient disposal of waste from whales treated therein so as not to cause a nuisance or any conditions likely to be injurious to health or offensive.

17. Offences—Every person commits an offence who does any act in contravention of or fails to comply with any provision of these regulations, and, except where some other penalty for the breach is provided in the Act, is liable on summary conviction to a fine not exceeding £50.

18. Revocation—The Whaling Industry Regulations 1949* are hereby revoked.

SCHEDULE

FORMS

Reg. 3 (1)

Form 1

APPLICATION FOR WHALING- FACTORY LICENCE

The Whaling Industry Act 1935

APPLICATION FOR A LICENCE TO OPERATE A FACTORY FOR TREATING WHALES

I (We), [*Name(s) of occupier in full*] of [*Full postal address of occupier*] the occupier(s) of the factory situate at..... hereby make application for a licence to operate the said factory, in terms of section 7 of the Whaling Industry Act 1935, for the purpose of treating whales.

I (We) enclose herewith the prescribed fee of £5.

Usual signature of applicant:.....

.....

.....

Date:.....

SCHEDULE—continued

Reg. 3 (1)

Form 2

APPLICATION FOR WHALING-SHIP LICENCE

The Whaling Industry Act 1935

APPLICATION FOR A LICENCE TO USE A SHIP FOR TAKING WHALES

I (We) [*Name(s) in full*] of [*Full postal address*] the owner(s) or charterer(s) of the ship(s) in the Schedule below hereby apply for a licence in terms of section 7 of the Whaling Industry Act 1935 to use the said ship(s) for the purpose of taking whales.

SCHEDULE

Name of Ship	Official Number	Overall Length	Horse-power	Type of Ship

I (We) enclose the prescribed fee of £5.

Usual signature of applicant:

Date:

Reg. 3 (2)

Form 3

WHALING-FACTORY LICENCE

The Whaling Industry Act 1935

LICENCE AUTHORISING A FACTORY TO BE USED FOR THE PURPOSE OF TREATING WHALES

1. Pursuant to section 7 of the Whaling Industry Act 1935, the Minister of Marine hereby authorises.....(hereinafter called the licensee) to use the factory occupied by it (him) and situate at..... for the purpose of treating whales.

2. This licence shall take effect as from the day of 19...., and shall continue in force until the day of 19...., unless previously cancelled under the Whaling Industry Act 1935.

3. This licence is granted on the following conditions:

- (a) The conditions attached to the licence by the Whaling Industry Act 1935 and the Whaling Industry Regulations 1961; and
- (b) [*Specify any other conditions attached to the licence by the Minister of Marine pursuant to the Whaling Industry Act 1935.*]

Dated at Wellington this day of 19....

.....
Minister of Marine.

SCHEDULE—*continued*

Reg. 3 (3)

Form 4

WHALING-SHIP LICENCE

The Whaling Industry Act 1935

LICENCE AUTHORISING THE SHIPS DESCRIBED IN THE SCHEDULE HERETO TO BE USED FOR TAKING WHALES

1. Pursuant to section 7 of the Whaling Industry Act 1935, the Minister of Marine hereby authorises (hereinafter called the licensee) to use the ships described in the Schedule hereto for taking whales in conjunction with the whaling factory situate at

2. This licence shall take effect on the day of 19....., and shall continue in force until the day of 19....., unless previously cancelled under the Whaling Industry Act 1935.

3. This licence is granted on the following conditions:

- (a) The conditions attached to the licence by the Whaling Industry Act 1935 and the Whaling Industry Regulations 1961; and
- (b) [*Specify any other conditions attached to the licence by the Minister of Marine pursuant to the Whaling Industry Act 1935.*]

SCHEDULE

Name of Ship	Official Number	Overall Length	Horse-power	Type of Ship

Dated at Wellington this day of 19.....

.....
Minister of Marine.

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 Whaling Industry Regulations 1949. The principal changes are—

- (a) The forms of applications for licences and the forms of licences and annual licence fees are prescribed (regs. 3 and 4).
- (b) Conditions to be attached to licences are prescribed (reg. 5).
- (c) The records to be kept by licensees are prescribed (reg. 6).
- (d) The Minister is authorised to refuse a licence or permit in his discretion (reg. 9).
- (e) The minimum sizes of whales that may be taken are fixed (reg. 10).
- (f) The open season for the taking of whales is reduced from six months to four months, but the Minister may extend the season if weather or other conditions have substantially hindered or prevented whaling operations (reg. 12).

- (g) Whales taken are to be marked (reg. 13).
 - (h) Whales taken are to be delivered promptly to a factory for processing and all parts, with certain exceptions, are to be processed (reg. 14).
 - (i) The taking of whales is to be so regulated or restricted where necessary that carcasses shall not remain untreated for more than 33 hours (reg. 15).
 - (j) The operator of a factory must take adequate steps for the prompt disposal of waste so as to prevent nuisances arising (reg. 16).
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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 21 September 1961.

These regulations are administered in the Marine Department.