

Fisheries Act 1942

LAWS OF FIJI

FISHERIES

*Ordinances No 4 of 1941, 14 of 1943, 2 of 1945,
20 of 1949, 8 of 1951, 16 of 1958, 34 of 1959,
26 of 1964, 7 of 1966, 37 of 1966 Act No 34 of 1976,
22 of 1977, Legal Notice No 87 of 1979
Decree No. 46 of 1991.*

AN ACT TO MAKE PROVISION FOR THE REGULATION OF FISHING

[1st January, 1942][sic]

Short title

1. This Act may be cited as the Fisheries Act.

Interpretation

2. In this Act, unless the context otherwise requires-

"cast net" means a round net, weighted at the periphery, which is used by being cast over fish in such a way that it sinks to the bottom;

"Fiji fisheries waters" means all waters appertaining to Fiji and includes all internal waters, archipelagic waters, territorial seas and all waters within the exclusive economic zone as these terms are defined in the Marine Spaces Act (*Cap 158A*);

(Inserted by 22 of 1977 s.2)

"fish" means any aquatic animal whether piscine or not, and includes shellfish, sponges, holothurians (*bêche-de-mer*), sea-urchins, crustaceans and turtles and their eggs;

"fisheries certification officer" means any fisheries officer appointed by the Permanent Secretary for Primary Industries for the purpose of certifying whether or not any fish has been taken by the use of explosive or chemical substances;

(Inserted by 46 of 1991)

"Fisheries Officer" means an officer appointed by the Public Service Commission to supervise fishing within Fiji or any part thereof;

"fishing vessel" means any vessel or boat used for taking fish by way of trade or business;

"hand net" means a net fixed on a frame or on two poles, which can be moved in all directions by one person, the maximum width of which is not greater than 1.5 m [five feet];

"licensing officer" means any person appointed by the Minister to issue licences under this Act;

"taking fish" includes any method of catching fish;

"wading net" means a net fixed on a frame or on two poles which can be moved in all directions by two persons, the maximum width of which does not exceed 4.3 m [fourteen feet].

(Section amended by 26 of 1964, s.2, by 34 of 1976, s.3, 22 of 1977 s.2 and 87 of 1979)

Minister may appoint honorary fish wardens

3. The Minister* may appoint honorary fish wardens whose duties shall be the prevention and detection of offences under this Act and the enforcement of the provisions thereof.

(Inserted by 34 of 1959, s2 Amended by 112 of 1970)

*. Delegated to Permanent Secretary for Agriculture and Fisheries by notification 11th November, 1965.

Application of Act to exclusive economic zone

4. (1) Nothing in this Act shall be construed-

(a) to require-

(i) the master, owner, charterer, if any, or any crew member of a foreign fishing vessel to obtain a licence to take fish within the exclusive economic zone; or

(ii) the registration of a foreign fishing vessel, for the purpose of fishing within the exclusive economic zone; or

(b) to authorise the making of any regulation in derogation of the provisions of the Marine Spaces Act in relation to fishing; *(Cap. 158A.)*

(c) to authorise the boarding, search, seizure, taking of possession or detention, under the provisions of this Act of any such foreign fishing vessel or of any equipment, fish, or persons on board the vessel in respect of any offence relating to fishing in the exclusive economic zone.

(2) Any offence against this Act that is committed within the exclusive economic zone shall be deemed to have been committed in Fiji.

(3) In this section the terms "exclusive economic zone", "fish", "fishing" and "foreign fishing vessel" have the meaning assigned to them by subsection (1) of section 2 of the Marine Spaces Act.

(Cap. 158A.)

(section inserted by 22 of 1977, s2)

Licence to take fish

5. (1) A licensing officer may in his discretion grant licences to take fish in Fiji fisheries waters.

(Amended by 22 of 1977, s2)

(2) Every licence granted under this Act shall terminate on the 31st December next after the day of issue. It shall be personal to the holder, shall not be transferable and shall be subject to such conditions as the licensing officer shall think fit to endorse thereon in accordance with this Act or any regulations made thereunder.

(3) No person shall take fish in Fiji fisheries waters by way of trade or business or as an employee of a person carrying on the trade or business of a fisherman unless such person is authorised by a licence to take fish:

Provided that:-

(a) a person who takes fish with a line from the shore or with a spear shall not be required to obtain such a licence;

(b) the Minister may by regulation exempt any person from the necessity of possessing such a licence;

(Subsection substituted by 26 of 1964, s3 and amended by 22 of 1977, 52)

(4) Subject to the provisions of subsection (2) of section 12 of the Marine Spaces Act, no licence to take fish in Fiji fisheries waters shall be granted to any person owning, operating or manning any fishing vessel registered elsewhere than Fiji without the prior approval of the Minister.

(Cap. 158A.)

(Inserted by 22 1977, s2)

Registration of fishing vessel

6. (1) Every licensed fisherman owning or operating any fishing vessel shall register every such vessel with a licensing officer, and shall renew the registration annually in the prescribed manner.

(Amended by 26 of 1964, s4)

(2) Every vessel registered under the provisions of this Act shall bear such letter and number as may be given by a licensing officer. Such letter and number shall be plainly painted and maintained plainly painted on each side of the vessel, on the swell of the bow thereof, in white figures on a black ground or in black figures on a white ground. Such figures shall be at least 200 mm [eight inches] in height and 25 mm [one inch] in breadth of stroke.

(Amended by 26 of 1964, s4 and 87 of 1979)

(3) If any vessel registered under the provisions of this section is a sailing vessel, the letter and number required to be painted on the bow shall, in addition, be plainly painted and be kept plainly painted in black figures on each side of the sail thereof and such figures shall be at least 300 mm [twelve inches] in height, and 50 mm [two inches] in breadth of stroke.

(Amended by 87 of 1979)

(4) Any person owning or operating a fishing vessel who fails to comply with any of the provisions of this section shall be guilty of an offence against this Act.

(Inserted by 14 of 1 W3, s2)

Power of examination and detention

7. (1) Any licensing officer, police officer, customs officer, honorary fish warden and any other officer empowered in that behalf by the Minister, may, for the purpose of enforcing the provisions of this Act:-

- (a) require any person engaged in fishing to exhibit his licence, apparatus and catch;
- (b) go on board any vessel reasonably believed to be engaged in fishing and search and examine any fishing apparatus therein;
- (c) where there is reasonable suspicion that any offence has been committed, take the alleged offender, the vessel, apparatus and catch, without summons, warrant or other process, to the nearest police station or port. The vessel and apparatus may be detained pending trial of the offender and the catch may be sold and the proceeds of the sale detained pending such trial; and thereafter any vessel, apparatus or money so detained shall, unless forfeited under the provisions of subsection (7) of section **10**, be returned to the person from whom the same was taken.

(Amended by 14 of 1943, s3)

(2) Any person who refuses to permit any officer or person mentioned in subsection (1) to board a vessel or obstructs or hinders him in the course of boarding a vessel or in the course of otherwise executing his duties shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding six months.

(Inserted by 34 of 1959, s3)

Cancellation of licence to take fish

8. A licence to take fish may be cancelled by the court upon the conviction of the holder for any contravention of the terms of his licence or for any breach of the provisions of this Act or of the regulations made thereunder.

Regulations

9. The Minister may make regulations:-

- (a) prohibiting any practices or methods, or employment of equipment or devices or materials, which are likely to be injurious to the maintenance and development of a stock of fish;
- (b) prescribing areas and seasons within which the taking of fish is prohibited or restricted, either entirely or with reference to a named species;
- (c) prescribing limits to the size and weight of fish of named species which may be taken;
- (d) prescribing limits to the size of nets or the mesh of nets which may be employed in taking fish either in Fiji fisheries waters or in any specified part thereof;
- (e) regulating the procedure relating to the issue of and cancellation of licences and the registration of fishing boats and prescribing the forms of applications and licences therefore and the conditions to be attached thereto;
- (f) prescribing the fees to be charged upon the issue of licences and the registration of fishing vessels which fees may differ as between British subjects and others;
- (g) regulating any other matter relating to the conservation, protection and maintenance of a stock of fish which may be deemed requisite.

(Section amended by 7 of 1966, 17 and 22 of 1977, s2)

Offences

10. (1) Any person who, being required to be the holder of a licence, takes or attempts to take fish in Fiji fisheries waters or is in possession of fishing apparatus in such circumstances as to satisfy the court before which he is tried that he intended to use the apparatus for the purpose of taking or destroying fish without being licensed under this Act shall be liable to imprisonment for three months or to a fine of five hundred dollars or to both such penalties.

(Amended by 2 of IWS, 133, 22 of 1977 and 46 of 1991, s3)

(2) Any person who:-

- (a) being the holder of a licence under this Act, fails to comply with any of the conditions of his licence; or
- (b) commits any offence against this Act for which no special penalty is provided; or
- (c) contravenes or fails to comply with the provisions of any regulation made hereunder,

shall be liable to imprisonment for three months or to a fine of five hundred dollars or to both such penalties.

(Substituted by 14 of 1943, 54, amended by 2 of 1945, s133 and 46 of 1991, s3)

(3) The master, owner and charterer, if any, of any fishing vessel registered elsewhere than in Fiji using such vessel for the purpose of taking fish within Fiji fisheries waters

without the prior approval of the Minister or under the authority of a licence issued under the provisions of section 14 of the Marine Spaces Act shall be liable on conviction to a fine not exceeding one hundred thousand dollars.

(Substituted by 22 of 1977, s2)

(4) Any person who takes or destroys or attempts to take or destroy any fish by the use of dynamite, gelignite or other explosive substance, or who, being the holder of a licence under this Act, is found in possession of dynamite, gelignite or other explosive in such circumstances as to satisfy the court before which he is being tried that he intended to use the substance for the purpose of taking or destroying fish, or any person possessing, transporting or selling or exposing for sale or hawking fish which has been taken by the use of one of the aforesaid explosives, shall be liable for a first offence to imprisonment for six months and to a fine of one thousand dollars; for a second offence to imprisonment for twelve months and a fine of two thousand dollars, and if he is the holder of a licence to take fish it shall be cancelled and may not be renewed for a period of three years from the date of the second conviction; for a third and any subsequent offence to imprisonment for two years and to a fine of five thousand dollars, and if he is the holder of a licence to take fish it shall be cancelled and may not be renewed for a period of six years from the date of such conviction. In all cases where dynamited fish is seized, it shall be confiscated and destroyed.

(Amended by 2 of 1945, s 133 and 46 of 1991, s3)

(4A) Persons convicted of offences under subsection (4) shall be sentenced to a minimum of:

- (a) a fine of \$1000 in case of a first offence;
- (b) a fine of \$2000 in the case of a second offence;
- (c) a fine of \$5000 in the case of a third and subsequent offences.

(Inserted by 46 of 1991, s3)

(5) Any person, whether he be the salesman or the owner of illegally caught fish, who fails to supply on demand to any officer named in section 7, information regarding the source of his supply, shall be guilty of an offence against this Act.

(6) Any person who obscures the registration number of a vessel with intent to evade any of the provisions of this Act shall be guilty of an offence against this Act.

(7) The court may order the forfeiture to the Crown of any vessel, apparatus or catch or the proceeds of sale on any catch detained under paragraph (c) of section 7, employed in the commission of, or derived from, any act proved to be an offence under this Act or any regulation thereunder:

Provided that in every case of a conviction under subsection (3) the fishing apparatus employed shall be forfeited to the Crown.

(Substituted by 14 of 1943, s.6)

(8) A certificate under the hand of a fisheries certification officer, Government veterinary officer or Government chemist stating that a fish has been killed by dynamite, gelignite or other explosive substance shall be *prima facie* evidence of that fact until the contrary be proved.

(Inserted by 34 of 1959, s.4)

(Amended by 46 of 1991, ~3)

Power to permit use of explosives

11. (1) The Minister may in his discretion issue to a Fisheries officer a permit authorising by a method specified in the permit and in accordance with any conditions which he may think fit to impose, the use of explosives for the taking of fish.

(Amended by 46 of 1991, s4)

(2) Where a permit has been issued under the provisions of subsection (1), the provisions of subsection (4) of section 10 shall not apply:-

(a) in respect of the taking or attempted taking of fish by the holder of the permit or his servants where such taking or attempted taking is in accordance with the terms and conditions of his permit;

(b) in respect of the destruction of fish by the holder of the permit or his servants where such destruction is in the course of and in consequence of the taking or attempted taking of fish in accordance with the terms and conditions of the permit;

(c) in respect of the possession, transportation, selling, exposing for sale or hawking of fish by any person where such fish were taken by the holder of the permit or his servants in accordance with the terms and conditions of the permit;

(d) in respect of the possession of explosives by the holder of the permit or his servants where such possession is for the purpose of taking fish in accordance with the terms and conditions of the permit.

(3) The Minister may at any time in his discretion cancel or modify a permit issued under this section.

(Section inserted by 20 of 1949, s.2. Amended by 112 of 1970)

Rewards

12. The court may order to be paid out of any fine inflicted for any contravention of any of the provisions of subsection (4) of section 10, such reward as the court considers fit and proper to any person giving information which may have led to the conviction of the offender:

Provided that in no instance shall the reward exceed one-half of the fine imposed.

Non-liability of Fisheries Officers

12A. No Fisheries Officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

(Inserted by 46 of 1991, s5)

Protection of native customary rights

13. (1) Notwithstanding anything contained in the Rivers and Streams Act, it shall be an offence for any person to take fish on any reef or on any kai (cockle) or other shellfish bed in any area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights unless he shall be a member of such mataqali, division or subdivision of the Fijian people who does not require a licence under section 5 to take such fish or shall first have obtained a permit to do so from the Commissioner of the Division in which such area is situated:

(Cap 136)

Provided that-

(a) such permits shall not be necessary in the case of persons taking fish (other than by way of trade or business or as the employee of a person carrying on the trade or business of a fisherman) with hook and line or with a spear or portable fish trap which can be handled by one person; and

(b) any such permit may exclude fishing for particular species of fish, or may exclude fishing in any particular areas, or may exclude fishing by any particular methods, or may contain any combination of such exclusions.

(2) The grant of a permit shall be in the discretion of such Commissioner who shall consult the Fisheries Officer and the subdivision of the Fijian people whose fishing rights may be affected thereby, prior to granting the same.

(3) A permit may be granted for any period not exceeding three years, but every such permit shall expire on the 31st day of December in any one of such years.

(Section substituted by 26 of 1964. s.6.)

Native Fisheries Commission

14. The Minister responsible for Fijian affairs may appoint a Native Fisheries Commission (hereinafter referred to as the Commission), consisting of one or more commissioners, each of whom shall have the powers of the Commission, who shall be

charged with the duty of ascertaining what customary fishing rights in each province of Fiji are the rightful and hereditary property of native owners, whether of mataqali or in whatsoever manner or way or by whatsoever divisions or subdivisions of the people the same may be held.

(Amended by 37 of 1966, s.50 and 112 of 1970)

Inquiry by Commission

15. (1) The Commission shall institute inquiries into the title of all customary fishing rights claimed by mataqali or other subdivisions of the people, and shall record in writing the boundaries and situation of such rights together with the names of the respective communities claiming to be owners thereof.

(Amended by 8 of 1951, s.3)

(2) The Commission shall with the approval of the Minister responsible for Fijian affairs make rules for regulating the procedure to be followed and prescribe forms to be adopted in any such inquiry.

(Amended by 112 of 1970)

Announcement of decision

16. On the conclusion of the proceedings recording the ownership of any customary fishing rights the Commission shall announce its decision to the parties concerned:

Provided that the Commission may adjourn to such date as it may think fit for the purpose of considering such decision.

Appeal

17. (1) There is hereby constituted an Appeals Tribunal consisting of a chairman and two other members all to be appointed by the Minister responsible for Fijian affairs. It shall be the duty of the Appeals Tribunal to hear and determine appeals from decisions of the Commission under section 16, and any such determination by the Appeals Tribunal shall be final.

(2) Any person aggrieved by any such decision of the Commission shall within ninety days of the announcement thereof give notice of his desire to appeal, which shall be signed by the appellant or his duly authorised agent, to the Commission. The notice shall contain the grounds of the appeal.

(3) For the purpose of determining an appeal the Appeals Tribunal shall have power to hear further evidence, but only if all of the three following conditions are satisfied:-

- (a) it is shown that the evidence could not have been obtained with reasonable diligence for use at the inquiry before the Commission;
- (b) if the further evidence is such that, if given, it would probably have an important influence on the decision;
- (c) if the evidence is such as is presumably to be believed.

(4) If no notice of appeal is given the record of the Commission shall be conclusive and final.

(Section substituted by 16 of 1958, s.2)

(subsections 1 and 2 amended by 112 of 1970)

Power to summon witnesses

18. For the purpose of any inquiry the Commission shall have the same powers as those vested in magistrates to summon and examine on oath any person whom they may think able to give relevant evidence, and to require the attendance of all claimants to any customary fishing rights, the title of which is being inquired into, and of all persons likely to be interested in the title to such right.

Registration

19. (1) The Commission shall cause the description of the boundaries and situation of fishing rights recorded and settled in the manner aforesaid to be entered in a register called the "Register of Native Customary Fishing Rights".

(2) The volumes of such register according to the provinces shall from time to time be transmitted to the Registrar of Titles who shall preserve the Register of Native Customary Fishing Rights in the same manner as the Register of Lands granted by the Crown.

(3) Where it is found that an error has been made in the preparation of such register it shall be lawful for the Registrar of Titles on the receipt of an order under the hand of the Minister responsible for Fijian affairs to correct the same.

(Amended by 118 of 1970)

Copy of register to be deposited

20. A copy of the volume of the said register in the Fijian language so far as applicable to each province shall be deposited with the scribe of the province, and a copy of the register so far as it affects each mataqali or other subdivision of the people shall be given to each for public use, whenever the boundaries of the fishing rights of such mataqali or subdivision have been finally fixed and determined.

Subsidiary Legislation

CHAPTER 158

FISHERIES

SECTION 2:-LICENSING OFFICERS

Legal Notice 115 of 1976

The following officers shall be licensing officers:-

Permanent Secretary for Agriculture and Fisheries
Chief Fisheries Officer
Principal Fisheries Officer
Senior Fisheries officer
Fisheries Officer.

SECTION 9:-FISHERIES REGULATIONS

*Regulations 6th Feb, 1965 (in force 26th Feb, 1965)
30th April, 1965, 10th Jan., 1966, 8th June, 1966,
22nd July, 1968, 4th Feb., 1970, 17th Jan., 1972,
87 of 1979, 9th Feb., 1990, 7th December, 1990, 19th July, 1991.*

Made by the Government in Council

PART I. - PRELIMINARY

Short title

1. These regulations may be cited as the Fisheries Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires-

"estuary" means that portion of an estuary specified by the Fisheries Officer by notice in the gazette.

"Fiji fishing vessel" means any fishing vessel which is registered in Fiji or the operations of which are based on a place in Fiji and which is wholly owned by a natural person who is a citizen of, or a company, which is at least 30% owned by Fiji citizens, incorporated in, Fiji. For the purpose of avoiding doubt, any fishing vessel which is not a Fiji fishing vessel by this definition shall be considered for licensing under the provisions of the Marine Spaces Act.

(Inserted by Regulations 9th February, 1990)

"Fishing gear" means all equipment used or intended for the purpose of catching fish and includes fishing lines, hooks, nets, spears, reels and line or net haulers, whether they be manually, hydraulically, or otherwise assisted by mechanical or electrical means.

(Inserted by Regulations 9th February, 1990)

"Minister" means the Minister responsible for fisheries matters.

(Inserted by Regulations 9th February, 1990)

"Set net" includes a gillnet, driftnet, trammel net or any other sort of net which acts by enmeshing or entangling any fish.

(Inserted by Regulations 9th February, 1990)

PART II. - LICENCES AND REGISTRATION

Fees

3. The fees to be charged for persons taking fish by way of trade or business or as employees thereof, and for registration of fishing vessels shall be as follows:-

- (a) (i) for the captain of every fishing vessel, a fee of four dollars per annum;
- (ii) for each member of the crew other than the captain and for each person taking fish as an employee of a person carrying on the trade or business of a fisherman, a fee of one dollar per annum;
- (iii) for each person who takes crustaceans or shellfish by net or hand net for sale, no fee: Provided that no further license shall be required in respect of the wife or husband, and not more than two children under the age of twenty-one years, of the licensee who assist the licensee and, where applicable, use his hand nets;

(Inserted by Regulations 22nd July, 1968)

- (iv) for any other person carrying on the trade or business of a fisherman, a fee of four dollars per annum;
- (b) (i) for each fishing vessel propelled by an engine or sail, an annual fee of four dollars;
- (ii) for each fishing vessel propelled by oars, paddles or poles, whether such hand-propelled vessel is worked independently or in conjunction with a power or sail-driven mother vessel, an annual fee of one dollar.

Licences

4. (1) for the purpose of avoiding doubt, it is hereby declared that a license under regulation 3 does not permit the holder to take fish on any reef or on any kai (cockle) or

other shellfish bed in any area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights, unless he shall have first obtained a permit to do so under section 13 of the Act from the Commissioner of the Division in which such area is situated. The holder of any such permit shall produce it to the licensing officer at the time of application for a licence under regulation 3 in order that the particulars thereon may be included in the application and recorded on the licence.

(2) Every licence granted under these Regulations shall expire on the 31st December next following the date of issue and shall be renewable at the discretion of the licensing officer upon payment of the prescribed fee.

Offshore licences

4A. (1) A fishing licence issued under Section 5 of the Fisheries Act shall not permit the licence holder to kill or take any species listed in the Seventh Schedule outside the limit of Internal Waters as defined by the Marine Spaces Act unless the Fiji fishing vessel which he is operating shall have on board an offshore licence pertaining to the fishery category under which that species is listed.

(2) A licensing officer may, in accordance with guidelines laid down by the Minister for Primary Industries, grant offshore licences for each fishery category listed in the Seventh Schedule in the form described by the Ninth Schedule.

(3) If any single Fiji fishing vessel intends to fish for several species listed under more than one fishery category described by the Seventh Schedule a separate offshore licence must be obtained for each relevant category.

(4) Every offshore licence granted under this regulation shall be specific to a single Fiji fishing vessel, shall not be transferable to another vessel and shall have no monetary value.

(5) Every offshore licence granted under this regulation shall terminate on the 31st December next after the day of issue.

(6) The fee to be charged for persons obtaining an offshore licence shall be as follows:-

(a) for the owner of a Fiji fishing vessel of length less than 12 metres, a fee of five dollars per annum per offshore licence;

(b) for the owner of a Fiji fishing vessel of length greater than 12 metres, a fee of fifty dollars per annum per offshore licence;

(4A Inserted by Regulations 9th February, 1990)

Conditions of offshore licences

4B. (1) The Minister shall, from time to time, determine on the basis of the best available information, the total allowable catch of every fishery category listed in the Seventh Schedule within Fiji fisheries waters and may allocate maximum allowable catch quotas accordingly to individual offshore licence holders.

(2) The Minister may prohibit fishing for species listed under a fishery category described by the Seventh Schedule in certain areas by certain classes of Fiji fishing vessel. Any such areas prohibited to a Fiji fishing vessel shall be endorsed upon the offshore licence pertaining to that vessel.

(3) Set nets shall not be used for the taking or killing of any species listed under Fishery Categories 1 and 2 in the Seventh Schedule except for the purposes of scientific research as permitted, in writing, by the Director of Fisheries.

(4) Details of the weight of each species caught at each geographical location on each day of fishing, and any other details requested by the Director of Fisheries, shall be returned monthly to the Fisheries Division by the offshore licence holder.

(5) Persons nominated by the Director of Fisheries shall be allowed on board during fishing trips by offshore fishing vessels for the purpose of scientific observation without charge to the Fisheries Division. Such persons shall be given free access to vessel logbooks and catch records and shall be given reasonable opportunity to make non-destructive measurements of the fish caught.

(6) Infringement of any of the provisions of this Regulation by an offshore licence holder may lead to cancellation of that offshore licence or a reduction in any quota for that, or the following, year.

(4B Inserted by Regulations 9th February, 1990)

Applications for registration of vessels and for fishing licenses

5. (1) Applications for the registration of a fishing vessel shall be made on the form set out in the First Schedule.

(2) The form of licence to be issued to the owner of a registered fishing vessel shall be that set out in the Second Schedule.

(3) Applications for a fishing licence shall be made on the form set out in the Third Schedule.

(4) A fishing license shall be issued in the form set out in the Fourth Schedule.

(5) Every applicant for a fishing licence shall submit with his application two copies of

his photograph, approximately 90 mm [3.5 inches] long by 60 mm [2.5 inches] wide.
(Amended by 87 of 1979)

Restrictions on Fiji fishing vessels

5A. (1) A Fiji fishing vessel registered under Section 6 of the Fisheries Act shall not be permitted to land, kill or take any species listed in the Seventh Schedule unless the owner of such vessel shall possess a valid offshore licence.

(2) A valid offshore licence shall be carried on board at all times when a registered Fiji fishing vessel is engaged in fishing for, or carrying, any of the species listed in the Seventh Schedule unless such vessel is employed as a carrier vessel and has no fishing gear on board.

(3) Any person owning, or operating a Fiji fishing vessel who fails to comply with any of the provisions of this Regulation shall be liable for prosecution under the Fisheries Act.
(5A Inserted by Regulations 9th February, 19SI)

PART III - PROHIBITED METHODS AND AREAS

Fish fences

6. It shall be competent for the Fisheries Officer:-

- (a) to determine the location and distance between fish fences or other similar obstructive devices of a permanent or semi-permanent nature;
- (b) to order the removal of a fish fence or other similar obstructive fishing device.

Use of nets in estuaries

7. No net other than hand nets, wading nets and cast nets shall be permitted for the purpose of taking fish in the estuary of any river or stream or in the sea within 100m [100 yards] of the mouth of a river or stream.
(Amended by 87 of 1979)

Use of poison

8. No person shall take, stupefy or kill any fish in any lake, pool, pond, river, stream or in the sea by the use of any of the- following substances or plants:-

- (a) any chemical or chemical compound;
- (b) any substance containing derris;

- (c) any substance containing the active principal of derris, namely, rotenone;
(d) any plant or extract of or derivative from any plant, belonging to the genera *Barringtonia*, *Derris*, *Euphorbia*, *Pittosporum* or *Tephrosia*,

or place any of such substances or plants in any water for the purpose of taking, stupefying or killing any fish.

Spearing of turtle

9. No person shall harpoon any turtle unless the harpoon is armed with at least one barb of which the point projects not less than 9.5 mm [3/8 inch] from the surface of the shaft, measured at right angles to the long axis of the shaft.

(Amended by 87 of 1979)

Fishing in fresh water

10. No person shall kill or take fish of any kind (excluding shellfish) in fresh water in any manner other than by means of a hand net, portable fish trap, spear, line and hook.

Restricted area

11. No person, unless he is authorised in writing under the hand of the Commissioner of the Division in which the area described in the Fifth Schedule is situated shall, within such area, kill or take fish of any kind whatsoever, except by hand net, wading net, spear or line and hook.

PART IV - MESH LIMITATIONS

Stretched measurement for nets

12. For the purposes of these Regulations, stretched mesh shall be measured by taking two diagonally opposing knots of the mesh of the net and drawing them apart until the remaining two knots of the mesh just touch each other.

Mesh of hand nets

13. The mesh of a hand net may be of any size.

Mesh of cast nets

14. The mesh of cast nets shall not be less than 30 mm [1.25 inches], wet and stretched.
(Amended by 87. of 1979)

Nets for sardines and whitebait

15. Nets for taking sardines and whitebait may have a mesh size of not less than 30 mm [1.25 inches], wet and stretched, but their overall dimensions shall not exceed 10.5 m [35 feet] measured along the cork line and 1.5 m [5 feet] from the cork line to the ground rope. It is prohibited to join two such nets together. Such nets may not be used to take fish other than sardines or whitebait.
(Amended by 87 of 1979)

Meshes of other nets

16. The meshes of wading nets and of all other nets not specifically mentioned in these Regulations shall be in no part less than 50 mm [2 inches], wet and stretched.
(Amended by 87 of 1979)

Fish fences

17. In every fish fence constructed with cane or reed screens there shall be at the inmost point in each terminal trap or pan a section not less than 1 m [3 feet] in length, and of the full height of the fence wherein the can or reeds shall be placed not less than 50 mm [2 inches] apart, or wherein the cane or reed screen shall be replaced by netting or cord, galvanised wire or expanded metal, the mesh of which shall measure not less than 50 mm [2 inches] across the smallest diameter, In fences constructed entirely of wire netting or of expanded metal, the mesh of the netting in the traps or pans shall measure not less than 50 mm [2 inches] along the shortest diameter.
(Amended by 87 of 1979)

PART V -- SIZE AND LIMITS OF FISH AND PROHIBITIONS

Fish

18. No person shall kill, take, sell or offer or expose for sale, any fish listed in the Sixth Schedule of less than the lengths therein set out, measured in each case from the point of the snout to the middle of the tailfin when the fish is laid flat:

Provided that this regulation shall not apply to fish caught by children under the age of sixteen years when fishing with hook and line from the shore or wading near the shore and not offered or exposed for sale.

Crabs

19. No person shall kill, take, sell or offer or expose for sale any crab of the species *Scylla serrata* (Swimming Crab or Qari Dina) of less than 125 mm [5 inches] measured across the widest part of the carapace or shell.
(Amended by 87 of 1979)

Turtle

20. (1) No person shall at any time dig up, use, take, sell, offer or expose for sale, or destroy turtle eggs of any species or in any way molest, take, sell, offer or expose for sale, or kill any turtle the shell of which is less than 455 mm [18 inches] in length. No person during the months of January, February, November or December in any year shall in any way molest, take, sell, offer or expose for sale, or kill any turtle of any size.
(Amended by Regulations 19th July, 1991)

(2) No person shall be in possession of, sell, offer or expose for sale or export any turtle shell the length of which is less than 455 mm [eighteen inches].
(Inserted by Regulations 8th June, 1966)
(Amended by 87 of 1979)

Trocas

21. No person shall take, be in possession of, sell, offer or expose for sale or export any shell:

(a) of the species *Trochus niloticus* (sici) (trocas shell) measuring less than 90 mm [3.5 inches] across the whorl;

(b) of the species *Pinctada margaritifera* (civa) (pearl oyster shell) of which the nacre or mother-of-pearl measures less than 100 mm [4 inches] from the butt or hinge to the opposite edge or lip.

(Amended by Regulations 8th June, 1966)

(Amended by 87 of 1979)

Davui

22. No person shall take, sell, offer or expose for sale or export any shell of the species *Charonia tritonis* (davui).

(Inserted by Regulations 4th February, 1970)

Giant helmet shell

23. No person shall take, sell, offer or expose for sale or export any shell of the species *Cassia cornuta* (giant helmet shell).

(Inserted by Regulations 4th February, 1970)

*[Application of regulations 22 and 23 **]*

*** This application since deleted*

24. (1) The prohibition on taking shells contained in each of the regulations 22 and 23 shall come into force on the 13th day of February, 1970.

(2) The prohibition on selling, offering or exposing for sale or exporting shells contained in each of the regulations 22 and 23 shall come into force on the 13th day of April, 1970.1 (Spent)

Porpoises and dolphins

25. No person shall kill, take, sell or offer or expose for sale any porpoise or dolphin of the genera *Phocaena* or *Delphis* (babale). For the purpose of avoiding doubt, the expression "dolphin" used in this regulation shall not be deemed to refer to the fish commonly known as a dolphin but of the genus *Coryphaena*.

(Inserted by Regulations 8th June, 1966)

Export of giant clam meat

25A. No person shall export from Fiji tridacnid clam (giant clam) (*vasua*) flesh, including adductor muscle or mantle tissue, of the following species:-

(a) *Tridacna derasa* (*vasua dina*);

(b) *Tridacna squamosa* (*cega*);

(c) *Tridacna maxima* (*katavatu*);

(Inserted by Regulations 16th December, 1988)

Bêche-de-mer

25B. No person shall export, either in a natural or processed form, holothurians (*bêche-de-mer*) of the species *Metriatyla scabra* (*Holothuria scabra*) (*dairo*) (sandfish) or shall take, be in possession of, sell, offer or expose for sale or export holothurians, either in a natural or processed form, of any other species whatsoever of a length less than 7.6 centimetres [3 inches].

(Inserted by Regulations 16th December, 1988)
(Amended by Regulations 7th December 1990)

Export of fish

26. No person shall export from Fiji-

- (a) live fish of any kind whatsoever;
 - (b) turtle flesh;
 - (c) turtle shell unless worked into jewellery or otherwise processed into a form approved by the Permanent Secretary for Primary Industries and Cooperatives."
- ((c)Inserted by Regulations 19th July, 1991)*

PART VI. - EXEMPTIONS

Exemptions by public officers

27. The Permanent Secretary for Agriculture and Fisheries or any person appointed by him may exempt any person, in writing, from any of the provisions of regulations 8, 10, 14, 15, 16, 18, 19, 20, 21, 25, 25A, 25B and 26.
(Amended by Regulations 16th December, 1988)

Exemption relating to Fijians

28. Any Fijian assisting a licensed fisherman in a traditional or customary fish drive shall not require a licence to take fish by way of trade or business by reason of the fact that such assistance is given, whether free of charge or on payment.

Exemption relating to punts or skiffs

29. (1) Where open unpowered punts or skiffs, each not exceeding 7.3 m [24 feet] in length, are employed in fishing by way of trade or business in conjunction with and under the immediate overall control of the captain of a power-driven or sailing fishing vessel, neither the persons in charge nor the crew of such punts or skiffs shall require licenses to carry on the trade or business of a fisherman when employed solely as foreshaid [sic].
(Amended by 87 of 1979)

(2) For the purposes of this regulation, the expression "sailing vessel" shall mean a vessel propelled solely or mainly by sail whether or not such vessel possesses an engine.

Exemptions for aquaculture

30. The Director of Fisheries or any person appointed by him may exempt any person, in writing, from any of the provisions of regulations 25(A) and 25(B) if evidence is supplied demonstrating that the fish covered by such regulations originated from artificial spawning methods (aquaculture or mariculture).
(Inserted by Regulations 16th December, 1988)

**FIRST SCHEDULE
(Regulation 5)
APPLICATION FOR REGISTRATION OF A FISHING VESSEL**

**SECOND SCHEDULE
(Regulation 5)
LICENCE / RENEWAL OF LICENCE FOR FISHING VESSEL**

**THIRD SCHEDULE
(Regulation 5)
APPLICATION FOR (RENEWAL OF) FISHING LICENCE**

**FOURTH SCHEDULE
(Regulation 5)
FISHING LICENCE**

**FIFTH SCHEDULE
(Regulation 11)
RESTRICTED AREA**

**SIXTH SCHEDULE
(Regulation 18)
(Minimum size limits for fish)**

Common Name	Fijian	Family	Genus	Maximum Length (mm)
Barracuda	Ogo	<i>Sphyranidae</i>	<i>Sphyrona</i>	300
Crevally, Trevally, Pompano	Saqa (Excluding vilu/Saqa)	<i>Carangidae</i>	<i>Caranx</i>	300
Grey Mullet	Kanace	<i>Mugilidae</i>	<i>Mugil</i>	200
Glassperch, Aholehole	Ika Droka	<i>Duclidae</i>	<i>Dules</i>	150
Ketang, Spinefoot Rabbitfish	Nuqa	<i>Siganidae</i>	<i>Siganus</i>	200
Long-jawed	Salala	<i>Scombridae</i>	<i>Rastrelliger</i>	200

Mackerel				
Longtom, Garfish, Greengar	Saku Busa	<i>Belonidae</i>	<i>Belone</i>	300
Milk Fish	Yawa	<i>Chanidae</i>	<i>Chaos</i>	300
Mojarra	Matu	<i>Gerridae</i>	<i>Gerres</i>	100
Parrotfish	Ulavi	<i>Callyodontidae</i>	<i>Scarichthys</i>	250
Pouter, Slimy, Soapy, Peperek	Kaikai	<i>Leignathidae</i>	<i>Gazza</i>	100
Rock Cod, Grouper, Salmon Cod	Donu, Kawakawa, Kavu (Excluding small red Spotted cod)	<i>Serranidae</i>	<i>serranus</i>	250
Sea Bream, Pig- faced Bream	Kawago, Dokonivudi, Musubi	<i>Lethrinidae</i>	<i>Lethrinus</i>	250
Small Sea Bream	Kabatia, Kake	<i>Lethrinidae</i>	<i>Lethrinus</i>	150
Small Sea Bream	Sabutu	<i>Lethrinidae</i>	<i>Lethrinus</i>	200
Surgeon Fish	Balagi	<i>Hepatidae</i>	<i>Hepatus</i>	200
Surmullet, Goatfish, Whiskercod	Ki, Ose	<i>Mullidae</i>	<i>Mulloidichthys</i> <i>Pseudopeneus</i> <i>Upeneus</i>	150
Snapper	Damu	<i>Lutjanidae</i>	<i>Lutjanus</i>	300
Unicorn-Fish, Leather jacket	Ta	<i>Hepatidae</i>	<i>Naso</i>	300

**SEVENTH SCHEDULE
FISHERIES REGULATIONS
(Regulations 4A, 4B & 5A)**

Fishery Categories for which a offshore licence is required-

Fishery Category 1:-

"DEEPWATER SNAPPER"; meaning benthic or demersal deep-bottom fishes of the family Lutjanidae or Serranidae having a natural habitat between 100 and 450 metres depth, including Red Snapper (*Etelis carbunculus*), Longtail Snapper (*E. coruscans*),

Smalltooth Snapper (*E.radiosus*), Purplecheek Opakapaka (*Pristipomoides multidens*), Yellowfinned Opakapaka (*P.flavipinnis*), Redfinned Opakapaka (*P.filamentosus*), Flower Snapper (*P.zonatus*), Redtailed Opakapaka (*P.typus*), Red Jobfish (*Aphareus rutilans*), Large-eye Bream (*wattsia mossambica*), Kusakar's Snapper (*Paracaesio kusakarii*), Stone's Snapper (*Paracaesio stonei*), Scarlet Seaperch (*Lutjanus timorensis* and *L.malabaricus*) and Deepwater Rockcods and Groupers (*Epinephelus magniscuttus*, *E.miliaris*, *E.morrhua* and *E.septemfasciens*).

Fishery Category 2:-

"TUNA"; meaning pelagic fishes of the family Scombridae, excluding the mackerels but including Skipjack (*Katsuwonis pelamis*), Yellowfin tuna (*Thunnus albacures*), Bigeye tuna (*Thunnus obesus*), Southern bluefin tuna (*Thunnus muccoyii*), Albacore tuna (*Thunnus alalunga*), Little tuna (*Euthunnus alletteratus*) and Frigate tuna (*Auxis* species) (Inserted by Regulations 9th February, 1990)

EIGHTH SCHEDULE
(Regulations 4A, 4B & 5A)
(APPLICATION FOR AN OFFSHORE LICENCE)

NINTH SCHEDULE
(Regulations 4A, 4B & 5A)
(OFFSHORE LICENCE)

SECTION 15.-NATIVE FISHERIES COMMISSION
(INQUIRIES) RULES

Rules in force 9th May, 1947, 29th Nov., 1977

Made by the Native Fisheries Commission and approved by the Governor in Council

Short title

1. These rules may be cited as the Native Fisheries Commission (Inquiries) Rules.

Interpretation

2. In these rules, unless the context otherwise requires -

"claimant" means any Fijian or Fijians claiming an interest in customary fishing rights of which the ownership is being inquired into.

Notice of inquiry

3. When the Commission is about to institute inquiries into the ownership of any fishing right, notice of the time and place at which the first sitting of the Commission for that purpose will be held shall be given to the Roko of the province in which the fishing right is situated.

Delivery of notice

4. The notice shall be delivered to the Roko not less than thirty days before the sitting of the Commission.

Publication of meeting

5. A general notice of the intention to hold a meeting of the Commission giving the time and place of the meeting shall be published in a newspaper published in the Fijian language and published in Fiji and in the Gazette, and also broadcast in Fiji by wireless.

(Amended by Rules 29th November 1977)

Mode of publication

6. The Roko shall cause the time and place of the sitting of the Commission to be publicly proclaimed in each Tikina.

Witnesses

7. Any member of a social unit claiming to have customary fishing rights shall be allowed to give evidence of such a claim before the Commission.

Claimant's deputy

8. Any claimant who, by reason of illness or other cause which the Commission may consider sufficient, is unable to attend the sittings of the Commission, may depute any male member of his mataqali to act as his representative and such representative shall be entitled to all privileges which might have been exercised by the claimant if present in person at the sitting.

Adjournment

9. The Commission may at its discretion from time to time adjourn the sitting either sine

die or to a fixed time and place. All claimants to the fishing rights within the province in which the Commission is sitting at the time of adjournment shall be deemed to have notice of the adjournment.

Languages

10. All proceedings before the Commission shall be conducted in the Fijian language.

Forms

11. The Forms set out in First and Second Schedules shall be used in recording the boundaries and owners of fishing rights.

FIRST SCHEDULE

(Rule 11)

FIJI

REGISTER OF NATIVE CUSTOMARY FISHING RIGHTS

<i>Vol.</i>	<i>Folio.</i>
recorded as the proprietary unit owning the Fishing Rights situated _____ and contained within the following boundaries commencing at:-	

Approved at the Native Fisheries Commission inquiry held at _____ on the _____ day of _____, 19_____.

Native Fisheries Commissioner

[English form for recording boundaries and owners of fishing rights: original to Registrar of Titles; duplicate kept by Commission]

SECOND SCHEDULE

(Rule 11)

FISHERIES ACT
(Chapter 158)

FISHERIES (REGISTRATION ON USE OF UNDERWATER
BREATHING APPARATUS) REGULATIONS, 1997
(Section 9)

In exercise of the power conferred on me under paragraph (a) of section 9 of the Fisheries Act, I have made the following Regulations

Short title

1. These Regulations may be cited as the Fisheries (Restrictions on Use of Breathing Apparatus) Regulations, 1997.

Commencement

2. These regulations shall come into force on 1 March 1997.

Interpretation

3. In these Regulations –

- (a) "fish" has the same meaning assigned to it under the Fisheries Act, and;
- (b) "underwater breathing apparatus" means and includes scuba gear, compressors and other mechanical and robotical means in the collection, catching and diving for fish.

Restriction of use of underwater breathing apparatus

4. (1) Subject to regulation 5, no person shall:

- (a) in any way collect, take, or dive for fish using underwater breathing apparatus;
- (b) be in possession of underwater breathing apparatus for the purpose of collecting, catching and diving for fish.

(2) Any person who contravenes the provision of this regulation shall be liable to a fine of four hundred dollars or imprisonment for a term of six months or to both fine and imprisonment.

Exemptions

5. (1) The Permanent Secretary or any person appointed by him in writing, may upon a written request by any person, exempt that person by writing under his hand, from the provisions of regulation 4(1) if, that person holds a valid licence to fish issued by the Fisheries Department and in addition, the person has satisfied the Permanent Secretary or the person appointed by him in that behalf that the person –

- (a) holds a valid licence issued by the Fisheries Department to operate underwater breathing apparatus;
- (b) holds a certificate of safety in regulation to the underwater breathing apparatus to be used, issued by the Ministry of Labour and Industrial Relations;
- (c) is a certified being diving operator being so certified by a reputable diving instructor, and
- (d) fish stock and traditional fishing rights in the area of operation will not be adversely affected.

Made this 7th day of February 1997.

M LEWEMQMA
Minister for Agriculture, Fisheries, Forests &
Agricultural Landlord and Tenant Act

[Fiji Republic Gazette Supplement No. 7 of 14 February 1997]

FJI REPUBLIC GAZETTE SUPPLEMENT
No. 25 FRIDAY, 20th June 1997

[LEGAL NOTICE NO. 65]

FISHERIES ACT
(CHAPTER 158)

**FISHERIES (MORATORIUM ON MOLESTING, TAKING OR
KILLING OF TURTLES) REGULATIONS, 1997**
(Section 9)

IN exercise of the power conferred on me under paragraph (g) of section 9 of the Fisheries Act, I have made the following Regulations –

Short title

1. These Regulations may be cited as the Fisheries (Moratorium on Molesting, Taking or Killing of Turtles) Regulations, 1997.

Commencement and Revocation

2. These Regulations shall be deemed to have come into force on 1st March 1997 and revokes the Fisheries (Moratorium on Molesting, Taking or Killing of Turtles) Regulations, 1995 contained in Legal Notice No. 32 of 1995.

Fisheries regulations amended

3. The Fisheries Regulations is amended by inserting the following provision (regulation "20A") immediately after regulation "20":

"Moratorium on molesting, taking or killing of turtles

20A (1) Notwithstanding the: provisions of Regulations 20, no person during 1st March, 1997 to 31st December 2000 shall

(a) in any way molest, or take or kill any turtle of any size;

(b) sell, offer or expose for sale or export any turtle shell or meat--

(2) The Minister may, upon a written request by any person, exempt that person by writing under his hand, from the provision of sub-regulations (1).

(3) Subject to sub-regulation (2), any person who contravenes the provision of sub-regulation (1) shall be liable to a fine not exceeding \$500 or imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

(4) The Minister may, if he or she considers it necessary or desirable, extend the prohibition on activities specified in sub-regulation (1) to a period beyond 31st December 2000 and may such extension be notified in the *Fiji Republic Gazette*.

Made this 15th May 1997

M V LEWENIQILA
Minister for Agriculture, Fisheries and Forests and ALTA

Note -This Notice revokes Legal Notice No. 50 of 1997 dated Friday, 23rd May 1997
