

KINGDOM OF TONGA

FISHERIES ACT 1989

THE FISHERIES (CONSERVATION AND MANAGEMENT) REGULATIONS 1993

TABLE OF CONTENTS

1.	Citation	1
2.	Interpretation	1
3.	Forms and Fees	1
Part 1 - General Conservation and Management Measures		
4.	General	1
5.	Export of Live Fish	2
6.	Inspectors	2
7.	Returns	3
8.	Offences	3
Part 11 - Prohibited Fishing Methods		
9.	Marine Mammals	3
10.	Diving Equipment	3
11.	Nets	4
Part 111 - Species Conservation and Management		
12.	Lobster ('Uo)	4
13.	Slipper Lobster (Tapatapa)	4
14.	Winged Pearl Oyster (Tofe)	5
15.	Triton Shell (Kele'a)	5
16.	Coral (Feo)	5
17.	Aquarium Fish (Ika 'o e Puha Sio'ata)	5
18.	Turtles (Fonu)	6
19.	Mullet (Kanahe or Fua)	6
20.	Giant Clams (Vasuva)	6
21.	Bech de mer (Mokohunu)	6
22.	Offences	6
Part 1V - Fish Fences		
23.	Fish Fences	7
24.	Licence Application	7
25.	Form	7
26.	Fees	7
27.	Grounds For Licence Refusal	7
28-29.	Offences and Prohibitions	7
Part V - Fish Aggregating Device		
30.	Placing Devices (Private)	8
31.	Designated Fish Aggregating Device (Public)	8
32.	Markings and Equipment	8

33.	Use.....	8
34.	Compliance etc.	9
35.	Disposal of Unauthorised Devices	9
36.	Offences	9

Part V1 - Miscellaneous Provisions

37.	Renewal of Licence	9
38.	Information To Be True, Complete and Correct	9
39.	Offences and Penalties	9
40.	Commencement	10

SCHEDULES

Schedule 1	-	Forms	11
Schedule 2	-	Fees	12
Schedule 3	-	Illustration of a Lobster (Panulirus)	13
Schedule 4	-	Illustration of a Slipper Lobster	14
Schedule 5	-	Closed Seasons	15
Schedule 6	-	Minimum Sizes for Giant Clams	16
Schedule 7	-	Minimum Sizes for Giant Clams	17

KINGDOM OF TONGA

FISHERIES ACT 1989

**SECTION 59. - THE FISHERIES (CONSERVATION AND MANAGEMENT)
REGULATIONS 1993**

To provide for the conservation and management of fisheries in Tonga and related matters.

IN EXERCISE of the powers contained in section 59 of the Fisheries Act 1989, the Minister of Fisheries makes the following Regulations:

CITATION

1. These regulations may be cited as the Fisheries (Conservation and Management) Regulations 1992.

INTERPRETATION

2. (1) In these regulations -

- (a) "the Act" means the Fisheries Act 1989, and "Order" means an Order in Council made under the Act;
- (b) The terms and phrases defined in the Fisheries Act 1989 shall be given the same meaning in these regulations, unless the context requires otherwise;
- (c) "operator" means any person who is in charge of, directs or controls any vessel, including the owner, charterer and master.

- (2) A reference in these regulations to -

- (a) a form is a reference to a form of that number in Schedule 1; and
- (b) a Schedule is a reference to a Schedule to these regulations.

FORMS AND FEES

3. (1) The forms set out in Schedule 1, with such modifications as the circumstances require, are hereby prescribed for the purposes of the Act and these regulations.
- (2) The fees set out in Schedule 2 are hereby prescribed for the purposes of the Act and these regulations.

PART I. - GENERAL CONSERVATION AND MANAGEMENT MEASURES

GENERAL

4. (1) The Director may establish annual production and export quotas by species and area for any commercial fishery for the purposes of fisheries conservation and management.
- (2) No person shall exceed the annual production and export quotas set by the Director in accordance with this regulation.

EXPORT OF LIVE FISH

5. (1) No person shall export any live fish, except with the written authorisation of the Director and in accordance with such conditions as he may specify.
- (2) For the purposes of this section, "export" means to take or cause to be taken out of the Kingdom of Tonga for commercial or potentially commercial purposes, any item described, and includes providing commercial samples but does not include the export of quantities of less than 20 kilograms in weight for the purpose of domestic consumption.
- (3) There shall be payable in respect of the written authorisation of the Director described in sub-regulation (1) the fee specified in Schedule 2.

INSPECTORS

6. (1) The Director may appoint in writing any person or category of persons as inspector to promote conservation and management of fisheries and monitor compliance with the Act or these regulations on behalf of the Registrar.
- (2) The inspector may request any information as authorised under the Act or these regulations or by the Registrar, consistent with the Act.
- (3) Information requested from fishermen, fish merchant, fish transporters, and fish exporters may include the following particulars, *inter alia*
- (a) name of the seller;
 - (b) origin of the fish;
 - (c) name of the village the seller is from;
 - (d) number of fish being sold;
 - (e) destination of the shipment;
 - (f) name of the buyer;
 - (g) date of sale;
 - (h) date of shipment;
 - (i) total weight of species being sold;
 - (j) price per kilogram;
 - (k) total price of shipment;
 - (l) name of ship/plane;
 - (m) number of flight/voyage.
- (4) Each person shall promptly furnish such information to an inspector appointed under this regulation as he is authorised to request.

RETURNS

7. (1) For purposes of fishery conservation and management, the Registrar may require returns from the sellers or purchasers of such species as he may designate during such time period as he may specify.
- (2) Such returns may include information relating to the following, *inter alia* -
 - (a) quantity sold/purchased;
 - (b) name of the buyer/seller; and
 - (c) island of origin of species.
- (3) Each person shall promptly furnish such information which may be required under this regulation.

OFFENCES

8. Any person who contravenes any provision in this Part commits an offence and is liable on conviction to a fine not exceeding \$10,000.

PART II. - PROHIBITED FISHING

MARINE MAMMALS

9. (1) In this regulation "marine mammals" means any member, at any stage of its life cycle, of any species of the class Mammalia including whales and dolphins.
- (2) Subject to sub-regulation (3), no person shall fish for marine mammals in the fisheries waters.
- (3) Any marine mammal caught incidentally shall be released immediately and returned to the waters from which it was taken with the least possible injury.
- (4) The Director may give written authorisation to fish for marine mammals in a limited manner and only in exceptional circumstances involving international scientific research which is intended to result in significant benefit for marine mammals, and will not cause harm or injury to the species.
- (5) Any person who contravenes the provisions of sub-regulation (3) & (4) commits an offence and shall be liable on conviction to a fine not exceeding \$10,000 and forfeiture in accordance with Section 42(c) of the Act.

DIVING EQUIPMENT

10. (1) No person shall use self-contained underwater breathing apparatus, or any diving equipment that utilises compressed gas or surface supplied air, for the purpose of fishing except with the written authorisation of the Registrar and in accordance with such conditions as he may specify.
- (2) Subject to sub-regulation (1), any diving equipment used in the commission of an offence against this regulation may be forfeited on the order of the court.
- (3) Any person who contravenes the provisions of sub-regulations (1) or (2) commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

NETS

- 11.** (1) The mesh when fully stretched of any dragnet or beach seine net used for fishing shall not be less than 38 millimetres.
- (2) The master, owner and charterer of any fishing vessel using a net which does not comply with regulation 11(1) each commit an offence and shall each be liable to a fine not exceeding \$10,000.
- (3) Any person who uses a cast net for fishing which has -
- (a) when fully stretched a mesh of less than 12 millimetres; or
 - (b) a radius exceeding 2 metres,
- commits an offence and is liable to a fine not exceeding \$1,000.
- (4) No person shall use any net for fishing within 200 metres of a fish fence except with the permission of the Registrar and in accordance with such conditions as he may specify.
- (5) Any person who contravenes the provisions of sub-regulation (4) commits an offence and shall be liable on conviction to a fine not exceeding \$1,000.

PART III. - SPECIES CONSERVATION AND MANAGEMENT

LOBSTER ('UO)

- 12.** (1) In this regulation "lobster" or "'Uo" means a crustacean of the genus Panulirus.
- (2) No person shall harm, take, have in his possession, sell or purchase -
- (a) any lobster carrying eggs;
 - (b) any lobster the carapace of which is less than 7.5 centimetres when measured along the mid line from immediately behind the rostral horns to the rear edge as illustrated in Schedule 3 to these regulations;
 - (c) any lobster the tail of which is less than 4.5 centimetres in width when measured between the lateral notches of the first tail segment with vernier calipers from the ventral side of the tail, as illustrated in Schedule 3 to these regulations.
- (3) No person shall use destructive techniques to dig lobsters from their burrows.
- (4) No person shall remove the eggs from a lobster or take, have in his possession, sell or purchase a lobster from which the eggs have been removed.

SLIPPER LOBSTER (TAPATAPA)

13. (1) In this regulation "slipper lobster" means a crustacean of the genus Parribacus.
- (2) No person shall harm, take, have in his possession, sell or purchase -
- (a) any slipper lobster carrying eggs; or
 - (b) any slipper lobster which is less than 15 centimetres in length when laid flat and measured from the front edge of the carapace to the rear edge of the telson as illustrated in Schedule 4 to these regulations.
- (3) No person shall use destructive techniques to dig slipper lobsters from their burrows.
- (4) No person shall remove the eggs from a slipper lobster or have in his possession, sell or purchase a slipper lobster from which the eggs have been removed.

WINGED PEARL OYSTER (TOFE)

14. (1) In this regulation "winged pearl oyster" or "tofe" means any mollusc of the species Pteria penguin.
- (2) No person shall harm, take, have in his possession, sell or purchase any winged pearl oyster which is less than 20 centimetres in dorso-ventral length.

TRITON SHELL (KELE'A)

15. (1) In this regulation "triton shell" or "kele'a" means a mollusc of the species Charonia tritonis.
- (2) No person shall harm, take, have in his possession, sell or purchase any triton shell which is less than 20 centimetres in length when measured along the outside of the shell from one end to the other.

CORAL (FEO)

- 16.** (1) No person shall remove or take any coral from within the fishery waters except with the written permission of the Director.
- (2) The Director may impose such conditions as he may specify, including, but not limited to, conditions relating to:
- (a) the quantities that may be removed or taken;
 - (b) the location or locations from which it may be removed or taken;
 - (c) the duration of any permission granted;
 - (d) the method of removal or taking;
 - (e) measures necessary or desirable to conserve and protect the marine environment;
 - (f) the fees, royalties or compensation to be paid in respect of the permitted operations.

AQUARIUM FISH

- 17.** No person shall engage in fishing for any marine aquarium fish except with the written permission of the Director and in accordance with such conditions as he may specify.

TURTLES (FONU)

- 18.** No person shall -
- (a) disturb, take, have in his possession, sell or purchase any turtle eggs;
 - (b) interfere with or disturb in any way any turtle nest;
 - (c) sell, purchase or export any turtle or the shell thereof of the species *Eretmochelys imbricata*, known as the hawksbill turtle.
 - (d) use a spear or spear gun for the purpose of capturing, destroying or taking any species of turtle; or
 - (e) capture, destroy or take any of the species of turtle specified in Schedule 5 during the period specified in Schedule 5.

MULLET (KANAHE OR FUA)

19. (1) In this regulation "mullet" or "kanahe" or "fua" means any species of fish of the family Mugilidae.
- (2) No person shall engage in fishing for mullet in the areas specified during the period specified in Schedule 5.

GIANT CLAMS (VASUVA)

20. (1) In this regulation "giant clam" or "vasuva" means any animal of the family Tridacnidae.
- (2) No person shall take, retain, sell or expose for sale, buy or have in his possession any giant clam the maximum shell length of which is less than the length specified for the particular species indicated in Schedule 6.
- (3) No person shall remove the mantle or adductor muscle from any giant clam the maximum shell length of which is less than the length specified for the particular species indicated in Schedule 6.

BECH DE MER (MOKOHUNU)

21. (1) In this regulation "beche de mer" or "mokokohunu" means any animal of the class Holothuroidea.
- (2) No person shall take, retain, sell or expose for sale, buy, export or have in his possession any beche de mer, the maximum length of which is less than the length specified for the particular species indicated in Schedule 7.

OFFENCES

22. Any person who contravenes any provision of this Part commits an offence and is liable on conviction to a fine not exceeding \$1,000.

PART IV. - FISH FENCES

FISH FENCES

23. (1) No person shall erect or use a fish fence without a licence issued by the Registrar under this Part.
- (2) In these regulations, a "fish fence" means any fence, stake or other fixed construction used for entrapping fish.

LICENCE APPLICATION

24. An application for a licence to erect a fish fence shall be in Form 1 and shall be accompanied by the fee specified in Schedule 2.

FORM

25. A licence to erect a fish fence shall be in Form 2 and, unless sooner cancelled or suspended, shall be valid for a period of 12 months from the date of issue.

FEES

26. The fee payable for the issuance or renewal of a licence to erect a fish fence is such amount as is specified in Schedule 2.

GROUND FOR LICENCE REFUSAL

27. The Registrar shall not issue a licence to erect a fish fence -
- (a) within 200 metres of another fish fence;
 - (b) within one kilometre of any Government wharf;
 - (c) in any place where it may be a hazard or obstruction to navigation; or
 - (d) where to do so would be inconsistent with the objectives set out in any fisheries plan issued under section 3(1) of the Act.

Provided further that the Registrar may refuse to issue a licence to any person who has been convicted of any offence against the Act or any regulations made thereunder.

OFFENCES AND PROHIBITIONS

28. No person shall erect or use a fish fence -
- (a) the mesh of which when fully stretched is less than 38 millimetres;
 - (b) the width of which at its widest point exceeds 140 metres;
 - (c) the total installed perimeter of which exceeds 140 metres; or
 - (d) at a distance seawards from the beach exceeding that specified in the licence.
29. Any person who fails to comply with regulation 28 or the conditions of any licence issued under this Part commits an offence and shall be liable to a fine not exceeding \$500.

PART V. - FISH AGGREGATING DEVICES

PLACING OF DEVICES (PRIVATE)

- 30.** (1) Any person places a fish aggregating device shall:
- (a) assure that the device does not constitute a hazard to navigation;
 - (b) inform the Registrar of the location and nature of the FAD.

DESIGNATED FISH AGGREGATING DEVICE (PUBLIC)

- 31.** (1) The Registrar may, by notice published in the Gazette, declare any fish aggregating device placed by the Ministry of Fisheries to be a designated fish aggregating device for the purpose of this regulation.
- (2) Subject to sub-regulation (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Registrar and in accordance with such conditions as he may specify.
- (3) The Registrar may, by notice published in the Gazette, declare that any class of people who are Tongan citizens may fish within a radius of one nautical mile of a designated fish aggregating device.

MARKINGS AND EQUIPMENT

- 32.** (1) Any fish aggregating device which utilises a surface float shall :
- (a) be clearly marked with the name of the owner and of the vessel from which the device was placed;
 - (b) be equipped with a radar reflector; and
 - (c) be equipped with such lights as to be visible at night from a distance of one nautical mile if the Registrar has determined that the device should have such gear.

USE

- 33.** Unless specifically authorized by the Registrar in writing, no person shall attach a vessel to a fish aggregating device. This sub-regulation does not apply to an individual who has placed the fish aggregating device to which attachment is made.

COMPLIANCE etc.

- 34.** Permission to use a fish aggregating device does not affect any obligation to observe applicable conservation or management measures for fisheries unless the Registrar specifies in writing that a particular measure does not apply with respect to fish caught within one nautical mile of that device.

DISPOSAL OF UNAUTHORISED DEVICES

35. Any fish aggregating device placed in the fishery waters otherwise than in accordance with permission given under regulation 30 or found in Tonga waters without a marking or piece of equipment required by regulation 32 may be used or disposed of in such manner as the Registrar may decide.

OFFENCES

36. Any person who contravenes any provision in this Part commits an offence and shall be liable on conviction to a fine not exceeding \$7,000.

PART VI. - MISCELLANEOUS PROVISIONS

RENEWAL OF LICENCE

37. Where any licence issued under these regulations is renewed within 30 days of its expiry it shall not be necessary to make a fresh application in the prescribed form or pay an application fee.

INFORMATION TO BE TRUE, COMPLETE AND CORRECT

38. (1) Any information required to be recorded, notified, communicated or reported pursuant to any requirement of these regulations shall be true, complete and correct.
- (2) Any change in circumstances which has the effect of rendering any such information false, incomplete or misleading shall be notified immediately to the appropriate person, authority or body.
- (3) Any person who contravenes sub-regulations (1) or (2) commits an offence and shall be liable to a fine not exceeding \$10,000.

OFFENCES AND PENALTIES

39. Any person who contravenes any provision of these regulations commits an offence and, unless otherwise provided in these regulations, shall be liable to a fine not exceeding \$10,000, and where the offence is a continuing one, a further fine not exceeding \$500 for every day that the offence has continued.

COMMENCEMENT

40. Except as otherwise provided, these regulations shall enter into force on the _____ day of _____ 1993

MADE this day of , 1993.

Minister of Fisheries

SCHEDULE 1

FORMS

1. Application to Erect a Fish Fence
2. Licence to Erect a Fish Fence

SCHEDULE 2

FEES

1. Authorisation to export fish or fish products - fees charged on the 0.5% of the value of the product being exported (the fees charged under this part are in addition to any licence fee charged by any other authority)
2. Application for a licence to erect a fish fence \$ 20.00
3. Licence to erect a fish fence \$ 30.00

SCHEDULE 3
(Regulation 12)

Illustration of a lobster (Panulirus) for the purpose of determining whether it is undersize.

0

SCHEDULE 4
(Regulation 13)

Illustration of a slipper lobster for the purpose of determining whether it is undersize.

SCHEDULE 5

CLOSED SEASONS
(Regulations 18 & 19)

Local Name	English Name	Scientific Name	Closed Season
Fonu (all species except the species known as leatherback turtle)	Turtle	All Species of Turtle except <u>Dermochelys coriacea</u>	1 November to 31 January
Fonu	Leatherback Turtle	<u>Dermochelys coriacea</u>	1 January to 31 December
Kanahe or Fua	Mullet	<u>Mugilidae</u>	1 June to 31 July (in Fanga'uta Lagoon only)

SCHEDULE 6

(Regulation 20)

MINIMUM SIZES FOR GIANT CLAMS

0

<u>Local Name</u>	<u>Scientific Name</u>	<u>Minimum Size</u>
Tokanoa molemole	<u>Tridacna derasa</u>	260 mm
Matahele	<u>Tridacna squamosa</u>	180 mm
Kukukuku	<u>Tridacna maxima</u>	155 mm

SCHEDULE 7
(Regulation 21)

MINIMUM LENGTHS FOR BECHE-DE-MER

<u>LOCAL NAME</u>	<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>	<u>MIN LENGTH</u> <u>(WET)</u>	<u>MIN LENGTH</u> <u>(DRY)</u>
MOKOHUNU	<u>HOLOTHURIA NOBILIS</u>	BLACK TEATFISH	260 mm	130 mm
HUHUVALU	<u>HOLOTHURIA FUSCOGILVA</u>	WHITE TEATFISH	320 mm	160 mm
MULA	<u>HOLOTHURIA FUSCOPUNCTATA</u>	ELEPHANTS TRUNK FISH	350 mm	150 mm
NGA'ITO	<u>HOLOTHURIA SCABRA</u>	SANDFISH	160 mm	70 mm
HOLOMUMU	<u>THELENOTA ANANAS</u>	PRICKLY REDFISH	300 mm	120 mm
LOLI	<u>HALODEIMA ATRA</u>	LOLLY FISH	165 mm	80 mm
TELEHEA	<u>ACTINOPYGA ECHINITES</u>	REDFISH	120 mm	60 mm

FORM 1
KINGDOM OF TONGA

Fisheries Act 1989
APPLICATION TO ERECT A FISH FENCE
(The Fisheries (Conservation and Management) Regulations 1993 - Regulation 24)
(Regulation 23)

I/We, (insert full name of applicant(s)):
of _____ apply for licence to erect a fish fence the full
particulars of which are described below :

Address of Applicant(s):

DESCRIPTION OF FISH FENCE

Attach a separate numbered sheet of paper if necessary

1. Design of the proposed fish fence: (attach diagram on a separate sheet of paper)
2. Size : (Specify overall capture area)
3. Materials to be used :
4. Specify mesh size:
5. Specify if there will be any lead or guide fence(s), if so, how many:

PROPOSED SITE OF THE FISH FENCE

NOTE :*No fish fence may be erected within two hundred (200) metres of another fish fence or within one (1) kilometre of any government wharf.*

6. Specify :

INTENDED USE OF CATCH

7. Specify:

I/We declare that the foregoing particulars are true, complete and correct

Signature of Applicant(s)

DATE: _____

This application is to be forwarded to the Registrar, MINISTRY of FISHERIES and is to be accompanied by the prescribed fee.

FORM 2

KINGDOM OF TONGA
(The Fisheries (Conservation and Management) 1993 - Regulation 25)

LICENCE TO ERECT A FISH FENCE

LICENCE NO. _____

1. This licence is issued pursuant to section 59(2)(e) of the Fisheries Act (No. 18 of 1989)
2. The holder of this licence is permitted to erect a fish fence in the area specified in paragraph 4 of this licence, for the period specified in paragraph 5 of this licence, and in accordance with the particular conditions set out in the Schedule to this licence and subject to the general conditions set out in the Fisheries (Conservation and Management) Regulations 1993 and such general conditions as may be prescribed under order made under the Fisheries Act.
3. Issued to: _____

Address: _____

4. A fish fence may be erected in the following area(s) :
5. Subject to the Fisheries Act and regulations made thereunder, this licence is valid from the
_____ day of _____ 19_____ to the
_____ day of _____ 19_____ (inclusive)
6. This licence is not transferable

Registrar

DATE : _____