



REPUBLIC OF KIRIBATI

FISHERIES ACT 2010

(NO.6 OF 2010)

FISHERIES (PURSE SEINE VESSEL DAYS SCHEME) REGULATIONS 2014

REPUBLIC OF KIRIBATI

FISHERIES ACT 2010

(NO.6 OF 2010)

FISHERIES (PURSE SEINE VESSEL DAYS SCHEME) REGULATIONS 2014

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II – FISHING DAYS

3. Requirement to comply with fishing days granted
4. Granting of fishing days
5. Calculation of fishing days
6. Requirement for stowage of fishing gear

PART III – ACTIVITIES THAT CONSTITUTE NON FISHING DAYS

7. Licensed transit
8. Impact of bad weather
9. Full catch and sailing for port
10. Breakdown
11. Net cleaning
12. Bunkering
13. Drifting
14. Provision of spare parts
15. Emergency

PART IV – MONITORING AND CONTROL

16. Requirement to install and operate mobile transceiver unit
17. Operation and monitoring of mobile transceiver unit
18. Confidentiality and authorised release of VMS information
19. Mobile transceiver unit reporting requirements

PART V – MISCELLANEOUS

20. General offences and penalty
21. Penalty notice offence

FISHERIES ACT 2010

(NO.6 OF 2010)

FISHERIES (PURSE SEINE VESSEL DAYS SCHEME) REGULATIONS 2014

In exercise of the powers conferred by section 45 of the Fisheries Act 2010, the Beretitenti acting in accordance with the advice of the Cabinet, hereby makes the following Regulations:-

PART I – PRELIMINARY

Short title and commencement

1. These Regulations may be cited as the Fisheries (Purse Seine Vessel Days Scheme) Regulations 2014 and shall come into force on the date of its publication by notice at the office of Te Beretitenti.

Interpretation

2. (1) In these Regulations unless the context otherwise requires –

“Act” refers to the Fisheries Act 2010;

“electronic equipment” means any device or system that can be used by a vessel to locate, track or otherwise monitor fish, fishing or related activity and includes but is not limited to –

- (a) a video camera;
- (b) equipment associated with a Fish Aggregating Device;
- (c) radar;
- (d) satellite;
- (e) a fish*finder;
- (f) beacon; or
- (g) a buoy.

“exclusive economic zone” or “EEZ” has the same meaning as denoted in the *Maritime Zones (Declaration) Act 2011*;

“fishing” has the same meaning as denoted in the Act;

“fishing day” means any calendar day, or part of a calendar day, during which a purse seine vessel is in the EEZ of Kiribati, but does not include a calendar day, or part of a calendar day, in which activities referred to in Regulations 7 – 15 are undertaken;

“Kiribati waters” has the same meaning as denoted in the Act;

“Length overall” in relation to a purse seine vessel, means the distance in metres (with an accuracy of two decimal places) in a straight line between the foremost point of the bow and the aftermost point of the stern, provided that the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, and the stern shall be taken to include the watertight hull structure, transom, poop, skiff ramp and bulwark.

“mobile transceiver unit” means an approved device placed on a fishing vessel that transmits either in conjunction with another device or devices or independently, information concerning the position, fishing and such other activities of the vessel as may be required;

“non fishing day” means a calendar day, or part of a calendar day, in which activities referred to in Regulations 7 – 15 are undertaken;

“Palau Arrangement” means the Palau Arrangement for the Management of the Western Pacific Purse Seine Fishery adopted in 1995 as amended;

“related activity” has the same meaning as denoted in the Act;

“vessel monitoring system” means any system to monitor the position and activities of fishing vessels for the purpose of effective management of fisheries;

“vessel monitoring system information” means all information generated and collected in respect of the operation of the vessel monitoring system.

PART II – FISHING DAYS

Requirement to comply with fishing days granted

3. (1) The operator and master of a purse seine vessel licensed or authorised to fish under the Act shall not exceed the fishing days granted to the vessel by the Director of Fisheries.

(2) Where a licensed or authorised purse seine is likely to exceed the fishing days granted to it, the operator of the vessel may apply to the Director of Fisheries for additional fishing days. Such vessel shall not engage in any fishing or related activity in Kiribati waters except for the additional fishing days granted.

(3) The operator and master of a purse seine vessel that uses such vessel for fishing within Kiribati waters in excess of the fishing days granted, each commits an offence.

Granting of fishing days

4. (1) The Director of Fisheries may, on approval of the Minister, grant fishing days to a foreign fishing vessel or fishing vessel registered in Kiribati in accordance with this Regulation, or pursuant to a treaty or arrangement to which Kiribati is a party.
(2) The fishing day granted under these Regulations:
 - (a) is personal to the holder and is not transferrable; and
 - (b) is subject to:
 - i. payment of the prescribed fee;
 - ii. general and special conditions imposed under Regulation 9; and
 - iii. compliance with the Act and its regulations.

Calculation of fishing days

5. (1) The Director of Fisheries shall apply the following principles in the calculation of fishing days:
 - (a) subject to sub paragraph (b), if a purse seine vessel reports during any fishing day from positions in the EEZ of Kiribati, that fishing day shall be attributed to Kiribati according to the actual times spent by the vessel in its EEZ;

- (b) where the Director of Fisheries has been duly notified by the operator that a purse seine vessel will be in the EEZ of Kiribati but will not be undertaking fishing, the days or parts of days spent by the vessel in the EEZ of Kiribati will not be counted as fishing days provided the vessel does not undertake fishing during the period identified;
- (c) a fishing day by a purse seine vessel with a length overall of less than 50 metres shall equate to a deduction of one half of a fishing day;
- (d) a fishing day by a purse seine vessel with a length overall of between 50 metres and 80 metres shall equate to a deduction of one day fishing day;
- (e) a fishing day by a purse seine vessel with a length overall in excess of 80 metres shall equate to a deduction of one and one half fishing days;
- (f) except where the vessel proves that it has not been fishing including with the use of its electronic equipment, there shall be no deduction of fishing days in respect of any period spent by a purse seine vessel within a port of Kiribati or designated transshipment area in Kiribati;
- (g) except where the vessel proves that it has not been fishing including with the use of its electronic equipment, there shall be no deduction of fishing days in respect of any period spent by a purse seine vessel within, the domestic fishing zone, the territorial sea, archipelagic waters and internal waters of Kiribati;
- (h) for the purposes of the calculation of a fishing day, a day shall be treated as a fishing day when a purse seine fishing vessel undertakes any fishing during that day or part of the 24 hour period of that day;
- (i) for an unlicensed purse seine fishing vessel, any day or part of a day in the Kiribati EEZ shall be counted as a non-fishing day.

(2) Notwithstanding sub-Regulation (1) paragraphs (f) and (g), the operator and master of a purse seine vessel that is fishing, including with the use of its electronic

equipment, within waters in which it is not licensed or authorized to fish commits an offence.

(3) A person claiming non-fishing days for any activities undertaken in accordance with Regulations 7 – 15 shall submit such claim to the Director of Fisheries within 24 hours for the counting and verification of fishing days.

Requirement for stowage of gear

6. (1) The fishing gear of the purse seine vessel must be stowed in a manner as not to be readily available for fishing. A purse seine vessel shall be deemed to be fishing during any time that its fishing gear is not completely stowed. For stowage purposes, the boom must be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and launches must be secured.

(2) Where the fishing gear of a foreign fishing vessel is not completely stowed and that vessel is not licensed or authorized to fish within EEZ of Kiribati, such vessel commits an offence and is liable to the penalty set out in section 8 of the Act.

(3) Where the fishing gear of a foreign fishing vessel is not completely stowed and that vessel is licensed or authorised to fish within EEZ of Kiribati, such vessel commits an offence and subject to these Regulations, the time spent within Kiribati waters with its gear not completely stowed shall be deducted from fishing days granted.

(4) Where the fishing gear of a fishing vessel registered in Kiribati is not completely stowed and that vessel is not licensed or authorised to fish within Kiribati waters, such vessel commits an offence and is liable to the penalty set out in section 11 of the Act.

(5) Where the fishing gear of a fishing vessel registered in Kiribati is not completely stowed and that vessel is licensed or authorised to fish within Kiribati waters, such vessel commits an offence and subject to these Regulations, the time spent within Kiribati waters with its gear not completely stowed shall be deducted from fishing days granted.

PART III – ACTIVITIES THAT CONSTITUTE NON FISHING DAYS

Licensed transit

7. (1) The transit of a licensed purse seine vessel in Kiribati waters undertaking during a calendar day, or part of a calendar day, may be attributed as a “non fishing day” if:
- (a) prior written notification of the transit is provided 24 hours in advance to the Director of Fisheries in accordance with his or her requirements;
 - (b) the notification contains information on the:
 - i. destination of transit;
 - ii. the point of entry into Kiribati waters; and
 - iii. the point of exit from Kiribati waters.
- (2) The master and operator of a licensed purse seine vessel in transit shall ensure that:
- (a) all fishing gear on the vessel is stowed;
 - (b) the vessel proceeds directly from the point of entry into Kiribati waters to the point of exit notified in advance; and
 - (c) the vessel maintains a straight course and a steady speed during the transit.
- (3) Where the licensed purse seine vessel transiting Kiribati waters:
- (a) does not comply with any requirement in sub-Regulation (1); or
 - (b) undertakes fishing during any period of the transit notification.

then each calendar day, or part of a calendar day, of such transit notified may be deemed fishing days.

Impact of Bad Weather

8. (1) Bad weather experienced by a licensed purse seine vessel during a calendar day, or part of a calendar day, may be attributed as a “non fishing day” if:
- (a) written notification of the bad weather is provided by the Captain or operator of the vessel to the Director of Fisheries in accordance with his or her requirements;

- (b) the notification contains specific information relating to the bad weather including the scale of strong winds, state of the sea, and current patterns;
- (c) the vessel is unable to make a set or unable to undertake any fishing during the 24 hour period; and
- (d) the bad weather event is verified by the report of the observer on board.

(2) Where the licensed purse seine vessel reporting bad weather in Kiribati waters:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing or related activities,

then each calendar day, or part of a calendar day; of such bad weather notified may be deemed fishing days.

Full catch and sailing for port

9. (1) A notification by a licensed purse seine vessel that it has full catch and it is sailing for a designated port, may be attributed as a "non fishing day" if:

- (a) written notification that the vessel has a full catch and is bound for port is provided by the Captain or operator of the vessel to the Director of Fisheries in accordance with his or her requirements; or
- (b) where the vessel does not have a full catch, written notification that the vessel is bound for port is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements;

provided that any notification shall include the vessel's position and destination port.

(2) The master and operator of a licensed purse seine vessel bound for port shall ensure that:

- (a) all fishing gear on the vessel are stowed;
- (b) the vessel proceeds directly from its position to its port destination; and
- (c) the vessel maintains a straight course and a steady speed.

(3) Where the licensed purse seine vessel:

- (a) does not comply with any requirement in sub-Regulations (1) or (2); or
- (b) undertakes fishing on return to the port destination,

then each calendar day, or part of a calendar day, of the return travel may be deemed fishing days.

Breakdown

10. (1) A notification by a licensed purse seine vessel that it has had a breakdown, may be attributed as a "non fishing day" if:

- (a) written notification that the vessel has not engaged in fishing or related activity within a 24 hour period is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements; and
- (b) the breakdown is of such a nature that prevents the vessel from fishing;
- (c) the breakdown is verified by the report of the observer on board.

(2) Where the licensed purse seine vessel:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing within the 24 hour period,

then each calendar day, or part of a calendar day, of the breakdown notified may be deemed fishing days.

Net cleaning

11. (1) A notification by a licensed purse seine vessel that it is cleaning its net, may be attributed as a "non fishing day" if:

- (a) written notification that the vessel is cleaning its net is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements;
- (b) there is no fishing during the 24 hours;
- (c) the net is placed in a straight line without the purse wire attached; and
- (d) the net cleaning is verified by the report of the observer on board.

(2) Where the licensed purse seine vessel:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing within the 24 hour period.

then each calendar day, or part of a calendar day, of the net cleaning notified may be deemed fishing days.

Bunkering

12. (1) A notification by a licensed purse seine vessel that it is bunkering, may be attributed as a "non fishing day" if:

- (a) written notification that the vessel is bunkering is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements;
- (b) there is no fishing during the 24 hours; and
- (c) the bunkering activity is verified by the report of the observer on board.

(2) Where the licensed purse seine vessel:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing within the 24 hour period.

then each calendar day, or part of a calendar day, of the bunkering notified may be deemed fishing days.

Drifting

13. (1) A notification by a licensed purse seine vessel that it is drifting, may be attributed as a "non fishing day" if:

- (a) prior written notification that the vessel is drifting is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements for such notification;
- (b) such notification includes the purpose of drifting and the start and end time of drifting;
- (c) there is no fishing during the period of drifting as advised; and
- (d) the drifting is verified by the report of the observer on board.

(2) Where the licensed purse seine vessel:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing or related activity within the period of drifting as advised, including the use of its electronic equipment for searching, then each calendar day, or part of a calendar day, of the time for drifting notified may be deemed fishing days.

Provisioning of spare parts

14. (1) A notification by a licensed purse seine vessel that it is provisioning spare parts, may be attributed as a "non fishing day" if:

- (a) written notification that the vessel is provisioning spare parts is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements for such notification;
- (b) there is no fishing during the 24 hours; and
- (c) the provisioning is verified by the report of the observer on board.

(2) Where the licensed purse-seine vessel:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing or other related activity within the 24 hour period.

then each calendar day, or part of a calendar day, of the time taken for the provisioning of spare parts notified may be deemed fishing days.

Emergency

15. (1) A notification by a licensed purse seine vessel of an emergency, may be attributed as a "non fishing day" if:

- (a) written notification that there is an emergency is provided by the master or operator of the vessel to the Director of Fisheries in accordance with his or her requirements for notification;
- (b) there is no fishing during the 24 hours period;
- (c) the emergency relates to:

- i. the health and safety of the crew;
 - ii. the safety of the vessel;
 - iii. assistance in a search and rescue operation at sea; and
- (d) the emergency is verified by the report of the observer on board.

(2) Where the licensed purse seine vessel:

- (a) does not comply with any requirement in sub-Regulation (1); or
- (b) undertakes fishing or related activity within the 24 hour period.

then each calendar day, or part of a calendar day, of the time for the emergency notified may be deemed fishing days.

PART IV – MONITORING AND CONTROL

Requirement to install and operate mobile transceiver unit

16. (1) No fishing licence or authorisation shall be issued pursuant to the Act unless the master, owner, operator, charterer, as the case may be, has installed on the vessel, an approved mobile transceiver unit in accordance with specifications and procedures approved by the Director of Fisheries and that such mobile transceiver unit is switched on and is operating properly at all times during the period of validity of the licence or authorisation.

(2) No fishing licence or authorisation shall be issued pursuant to the Act unless the master, owner, operator, charterer, as the case may be, consents to the monitoring of the said mobile transceiver unit at all times within and beyond Kiribati waters during the period of validity of such licence or authorisation.

(3) A person that contravenes sub-Regulations (1) or (2) commits an offence.

(4) A mobile transceiver unit is deemed to be an “observer device” for the purposes of section 36 of the Act.

Operation and monitoring of mobile transceiver unit

17. (1) The owner or operator of a fishing vessel licensed or authorised pursuant to the Act shall –

- (a) maintain the mobile transceiver unit in good working order at all times during the period of validity of the licence or authorisation when the vessel is in Kiribati waters, on the high seas or in waters under the jurisdiction of another State;
- (b) not interfere with, tamper with, alter, damage, or disable the mobile transceiver unit;
- (c) not move or remove the mobile transceiver unit from the original position in which such unit was installed without the prior permission of the Director of Fisheries;
- (d) ensure that upon notification by the Director of Fisheries or officers designated by the Director that the vessel's mobile transceiver unit has failed to transmit, comply with the directives of the Director of Fisheries or officers designated by the Director until such time that the vessel's mobile transceiver unit is functioning properly;
- (e) authorise the Director to be able to monitor the vessel at all times during the period of validity of the licence or authorisation;
- (f) allow for the auditing and interrogation of the mobile transceiver unit by authorised officers or officers designated by the Director of Fisheries.

(2) The Director of Fisheries may, with the approval of the Minister, suspend or cancel the licence or authorisation of any fishing vessel registered in Kiribati or foreign fishing vessel that fails to comply with these conditions.

(3) A person that contravenes sub-Regulation (1) commits an offence under section 36 of the Act and is liable on conviction to penalties stipulated therein.

Confidentiality and authorised release of VMS information

18. (1) The ownership of all vessel monitoring system information generated in Kiribati waters or by fishing vessels registered in Kiribati within or beyond Kiribati waters vests in the State.

(2) Vessel monitoring system information is classified as confidential information.

(3) The Minister may authorise the release of vessel monitoring system information only in the following circumstances –

- (a) cooperation in monitoring, control and surveillance with other agencies of government including border control agencies;
- (b) discharge of international and regional obligations assumed by Kiribati;
- (c) under agreements for the exchange of vessel monitoring system information for purposes including but not limited to scientific purposes and to deter and eliminate illegal, unreported and unregulated fishing;
- (d) maintenance of law and order; or
- (e) safety of life.

Mobile transceiver unit reporting requirements

19. (1) Subject to this Regulation, the owner or operator of a purse seine vessel licensed or authorised pursuant to the Act shall ensure that the mobile transceiver unit provides location transmissions at intervals of at least one hour.

(2) Where the mobile transceiver unit of a purse seine vessel is unable to transmit for any reason, the Director of Fisheries shall promptly notify the master or operator of the vessel of the failure. The master or operator of the vessel shall, as soon as practicable, submit a transmission failure report to the Director of Fisheries. The first transmission failure report shall account for the period from the time of the failure or the notification from the Director of Fisheries to the time of submission of the report. Subsequent transmission failure reports shall be submitted at intervals of two (2) hours. Transmission failure reports shall include information on the position of the vessel, speed, heading, activity, catch on board by species and such other information required by the Director of Fisheries.

(3) Where a purse seine vessel is unable to comply with the requirements of this Regulation, the master of that vessel must immediately stow the vessel's fishing gear and take the vessel directly to the nearest port, or such other port as the Director of Fisheries directs, and immediately report to the Director of Fisheries of actions taken.

(4) A person that contravenes this Regulation commits an offence.

PART V – MISCELLANEOUS

General offences and penalty

20. (1) A person who commits an offence against these Regulations for which no other penalty is provided is liable for a penalty –

(a) in the case of a natural person – a fine not more than \$5,000; and

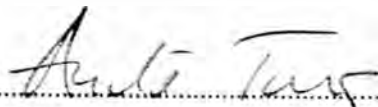
(b) in the case of a corporation – a fine not more than \$10,000.

(2) Where the offence is a continuing one, a person shall be liable to a further fine not exceeding \$1,000 for every day that the offence has continued.

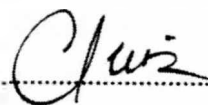
Penalty notice offence

21. Where appropriate, a penalty notice may be served for an offence against these Regulations pursuant to the requirements set out in section 41 of the Act.

Made this 12th day of September, 2014.


.....
HIS EXCELLENCY. ANOTE TONG
BERETITENTI

Published by exhibition at the Office of the Beretitenti this..... day of September, 2014.


.....
TEEA THIRA
SECRETARY TO THE CABINET