

REPUBLIC OF NAURU
FISHERIES ACT 1997

FISHING LICENCE (FAD CLOSURE) REGULATIONS 2009

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In exercise of the powers conferred on it by section 42 of the Fisheries Act 1997 the Cabinet has made the following regulations –

PART I – PRELIMINARY

Citation

1. These Regulations may be cited as the Fishing Licence (FAD closure) Regulations 2009.

Objective

2. These Regulations are intended to give domestic legislative effect to paragraphs 11-14 of Conservation and Management Measure 2008-01 of the Western and Central Pacific Fisheries Commission and shall be interpreted and applied in the context of and in a manner consistent with the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

Commencement and duration

3. These Regulations shall commence on 1 August 2009 and shall be repealed on 1 October 2009.

Interpretation

4. In these Regulations, unless the contrary intention requires:-

“Associated electronic equipment” means any device or system that can be used to locate, track or otherwise monitor a Fish Aggregating Device;

“Boat” does not include a small boat;

“Deployment” means the introduction into the sea of a FAD or associated electronic equipment;

“CEO” means the Chief Executive Officer of the Nauru Fisheries and Marine Resources Authority appointed under the Nauru Fisheries and Marine Resources Authority Act 1997;

“Exclusive Economic Zone” means the zone defined by the Sea Boundaries Act 1997;

“Fish Aggregating Device” or “FAD” means any object or group of objects of any size floating on or near the surface of the water or semi-submerged in the water or moving slowly near the surface of the water, whether living or non-living, that has been deployed for the purpose of aggregating fish, or that has not been so deployed but which has or is likely to have the effect of aggregating fish, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and large sea animals;

“High seas” means all parts of the sea that are not included in the exclusive economic zone, territorial sea, and internal waters of Nauru defined in the Sea Boundaries Act and are not part of the recognized exclusive economic zone of any other State;

“Licence” means a licence, permit or authorisation issued by the CEO, or by a regional authority pursuant to a Regional Licensing Arrangement, in accordance with section 12 of the Fisheries Act 1997;

“Licensed boat” means a boat licensed or deemed to be licensed under section 12 of the Act;

“Minister” means the Minister responsible for fisheries;

“Nauru Agreement” means the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest;

“Operator” means the owner, charterer, master and any other person who is in charge of, responsible for the operations of, directs or controls a boat, but does not include a pilot;

“Party” means a Party to the Nauru Agreement;

“Prohibition period” means the period of time between 0001 hours GMT on 1 August 2009 and 2359 hours GMT on 30 September 2009.

“Regional authority” means the Administrator of the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America and the Administrator of the Federated States of Micronesia Arrangement for Regional Fisheries Access;

“Retrieval” or “retrieved” in relation to fish aggregating devices or associated electronic equipment means the collection or removal from the water of any fish aggregating device or associated electronic equipment;

“Servicing” means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of fish aggregating devices or associated electronic equipment;

“Sub-regional observer programme” means an observer programme established pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America, the Federated States of Micronesia Arrangement for Regional Fisheries Access and other observer programmes agreed to by the Parties to the Nauru Agreement from time to time;

PART II – MEASURES

Fishing Licences not valid unless specific terms complied with

5. In addition to any general terms and conditions that the CEO may impose on any boat licensed to fish in the exclusive economic zone pursuant to Section 12 of the Act, and notwithstanding any written permission previously granted by the CEO under regulation 42 of the Fisheries Regulations 1998, no fishing licence issued pursuant to the Act shall be valid unless the additional conditions prescribed in these Regulations are imposed by the CEO and complied with by the operator.

Use of Fish Aggregating Devices prohibited

6. (1.) The deployment or servicing of a Fish Aggregating Device or any associated electronic equipment within the exclusive economic zone and the high seas between 20°N and 20°S latitude is prohibited during the prohibition period.
- (2.) A Fish Aggregating Device or associated electronic equipment shall not be retrieved by a licensed boat during the prohibition period unless:-
 - (a) the Fish Aggregating Device or associated electronic equipment are retrieved and kept on board the boat until landed or until the end of the prohibition; and
 - (b) the boat does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval.
- (3.) No purse seine fishing boat shall conduct any set during the prohibition period within one (1) nautical mile of a FAD or of a point where a FAD has been retrieved by another boat within twenty four (24) hours immediately preceding the start of the set.
- (4.) The operator of a boat shall not allow the boat to be used to aggregate fish.

Requirement for use of observers

7. (1.) A purse seine fishing boat licensed pursuant to the Act shall carry at all times during the prohibition period provided for under Regulation 6 an observer from either the national observer programme of a Party or an existing regional or sub-regional observer programme whilst within the exclusive economic zone or the high seas between 20°N and 20°S latitude in accordance with all requirements of such observer programmes.
- (2.) The Minister may vary or exempt any boat from the conditions prescribed in sub-Regulation 1 if all reasonable attempts to obtain an observer from a national observer programme of a Party or a regional or sub-regional observer programme have been made and have failed, or if the boat is not licensed to fish in the waters of any coastal state other than Nauru.
- (3.) Unless exempted under sub-Regulation (2), a purse seine boat licensed pursuant to the Act without an observer from either the national observer programme of a Party or an existing regional or sub-regional observer programme on board, shall at the commencement of the prohibition period cease fishing and return directly to port.
- (4.) All variations or exemptions granted under sub-Regulation 2 shall be published in the Gazette.

PART III – OFFENCES AND PENALTIES

Penalties

8. A licensed boat that contravenes regulation 6 or 7 commits an offence and shall have its licence cancelled and shall be liable to the penalties provided for under section 23 of the Act.