



FOOD (FISH EXPORT PROCESSING) REGULATIONS 2006


Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this

2nd

day of

May

2006

Present:

**HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE
IN EXECUTIVE COUNCIL**

PURSUANT to section 35A of the Food Act 1992-93, His Excellency the Queen's Representative acting by and with the advice and consent of the Executive Council, hereby makes the following Regulations.

ANALYSIS

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- carrying, or handling of any fish, fish product, fish by product, ingredient, or additive; and
- (b) any utensil or machine used or capable of being used in the cleaning of any appliance;

"approved" means approved by the Secretary;

"authorised officer" means any person appointed under section 30 of the Marine Resources Act 1989, the Secretary, and any officer or employee of the Ministry of Health designated by the Secretary as such or to whom the Secretary may delegate that function pursuant to section 16 of the Ministry of Health Act 1991;

"check" means any activity (including taking and analysing product) carried out by a licensee or the licensee's representative for the purpose of ascertaining whether or not any requirements are being complied with; and "checking" has a corresponding meaning;

"clean", when used as a verb, means the removal of visible contaminants from any surface; and "cleaned" and "cleaning" have corresponding meanings;

"clean seawater" means seawater that -

- (a) is free of excessive turbidity, colour, offensive odours, and any contaminating substances; and
- (b) meets approved microbiological standards;

"container", in relation to the packing of fish, -

- (a) means any barrel, box, bag, carton, can, crate, drum, jar, wrapper, packaging material, or other receptacle or covering; but
- (b) does not include a shipping container referred to in accepted transport practice as a shipping container;

"contaminant" means any matter, colour, odour, or taste, that is harmful to or unsuitable for human consumption; and, in relation to any fish or fish product, includes micro-organisms that are harmful to or unsuitable for human consumption; and "contaminate", "contaminated", and "contaminating" have corresponding meanings;

"contamination" -

- (a) means the transfer of a contaminant to any fish, fish product, container, appliance, product contact surface, ingredient, additive, potable water supply, or clean seawater supply; and
- (b) includes the transfer of a contaminant from any such thing involved at one stage of the processing of any other such thing involved at an earlier or subsequent stage of processing;

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- (d) will not transfer contaminants to any product; and
- (e) is durable, resistant to fracture, and capable of withstanding repeated exposure to normal cleaning and sanitising; and
- (f) is resistant to the growth of mould or the accumulation of contaminants; and
- (g) in the case of surfaces (other than those used for walking and standing on during operations), is smooth and resistant to the accumulation of condensation; and
- (h) in the case of materials lining the walls, floors, or ceilings, is of a colour that does not disguise contaminants, having regard to the lighting arrangements;

"Ingredient" means any substance that is used in the manufacture or processing of fish product in such a way that it is present, whether in a modified form or not, in the final product;

"Inspection" means any activity (including taking and analysing any product) carried out by an Authorised officer for the purpose of ascertaining whether or not any requirement is being complied with;

"Label" means any wording, tag, brand, symbol, picture, or other descriptive matter, written, printed, stencilled, marked embossed, impressed on, appearing on, attached to, or enclosed within -

- (a) any fish, fish product, or fish byproduct; or
- (b) any container of any fish, fish product, or fish byproduct—for the purpose of describing the contents; and

"labelling" and "labelled" have corresponding meanings;

"Licence" means -

- (a) a fish premises licence granted in respect of a fish processing establishment under section 27 of the Marine Resources Act 1989; or
- (b) an approval issued in respect of any fishing vessel or premises for the time being exempted from licensing by regulation 21(1) of these Regulations; and

and "licensee" and "licensed" have corresponding meanings;

"Limited processing" means -

- (a) any scaling, gutting, deheading, chilling, tailing, or freezing of fish for human consumption;
- (b) any other approved processing where any of the fish is intended to be exported for human consumption;
- (c) the manufacture and packing of fish byproducts;

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"Protective clothing" means working garments (including overalls, aprons, sleeves, gloves, headwear, footwear and facial hair coverings) used as outer wear while working in any fish premises;

"Ready-to-eat product" means any fish product that may be eaten with little or no preparation or cooking;

"Required" means required by or under -

- (a) the Act, these Regulations, any circulars issued by the Secretary under these Regulations, or any specific approvals or exemptions granted by the Secretary under these Regulations; or
- (b) the terms of any licence or any conditions attached to it; or
- (c) the instructions of an authorised officer carrying out duties or functions under the Act or these Regulations; -

and "requirement" has a corresponding meaning;

"Sanitary design" means designed and made so that an area, conveyance, or appliance -

- (a) meets the requirements appropriate to its use; and
- (b) can be readily maintained, cleaned, and sanitised where required to ensure that it is free from contaminants and vermin; -

and, in relation to any appliance or accessway in any product area, also means that the appliance or accessway -

- (c) is easily accessible for maintenance, cleaning, operation, checking, and inspection; and
- (d) does not allow contaminants to contact any product or other appliance; and
- (e) precludes the harbouring or accumulation of any contaminants or vermin;

"Sanitising" means the application of an approved chemical or physical agent with the intention of reducing microbial contamination to a level that will avert the creation of a human health hazard in the product; and "sanitised" has a corresponding meaning;

"Secretary" means the Secretary of the Ministry of Health appointed pursuant to the Ministry of Health Act 1991;

"Store" means any part of any fish premises, whether refrigerated or not, used for the storing of -

- (a) fish products; or
- (b) additives; or
- (c) ingredients; or
- (d) containers; -

(2) All persons exercising functions and powers under these Regulations shall exercise such functions and powers in a manner that maintains the integrity of such assurances where fish product is handled, packed, processed, stored or transported or otherwise prepared for export for human consumption

4. Application of Regulations - (1) Except as otherwise expressly provided in these Regulations, these Regulations apply to -

- (a) fish premises and appliances used or proposed to be used for or in connection with the processing, packing, handling, storing, transporting or other preparation of fish or fish products intended for export for human consumption, or (where necessary to meet overseas requirements) of fish byproducts;
 - (b) all fish, fish products, and (where necessary to meet overseas requirements) fish byproducts intended to be processed, packed, handled or stored or otherwise prepared in fish premises for export for human consumption;
 - (c) all fish and fish products in fish premises for export for human consumption;
 - (d) the processing, packing, handling, storing, and transport operations undertaken by a licensee in respect of fish, fish products, or (where necessary to meet overseas requirements) fish byproducts for export for human consumption;
 - (e) the storing and transportation by any person, other than a licensee of fish, fish products, or (where necessary to meet overseas requirements) fish byproducts, intended for export.
- (2) Nothing in these Regulations applies to -
- (a) fish intended to be exported alive but not intended for export for human consumption; or
 - (b) fish or fish products held in fish premises for the purpose of domestic sale if held in a room that is especially set aside for that purpose and no other purpose, and the room does not give direct access to the remainder of the fish premises.

(3) These Regulations do not apply to fish, or fish products or byproducts, whose processing is exempted by the Secretary under regulation 19 or 20 of these Regulations.

5. Contamination of fish species or fishing areas - (1) The Secretary may, for the purpose of clause 3 of Part 3 of the Schedule to these Regulations, give notice to licensees that a species or type of fish, or an area from which fish is taken, is in the Secretary's opinion likely to be unsafe due to contamination.

(2) The Secretary may by notice to licensees declare that a species or type of fish is subject to clause 4 of that Part of that Schedule.

8. Quality checks - Every licensee shall implement an approved programme so as to ensure that -

- (a) regular checks on compliance with the requirements are made; and
- (b) the results of the checks are recorded; and
- (c) corrective action is taken within an approved period of time if a check reveals non-compliance with a requirement.

9. Transportation by persons other than licensee - (1) This regulation applies to any person transporting fish, fish products, or (where necessary to meet overseas requirements) fish byproducts, intended for export, but does not apply to any licensee or person under the control of a licensee.

(2) Every person to whom this regulation applies shall transport any fish, fish products, or fish byproducts in accordance with Part 5 of the Schedule to these Regulations as if that person were a licensee undertaking transportation of fish, fish products, or fish byproducts.

10. Records to be kept - (1) Every licensee shall keep such records as will enable the licensee, the Secretary, or any Authorised officer to readily ascertain -

- (a) the nature, quantity, and source of any fish or fish product handled in the fish premises; and
- (b) the date on which each container of fish or fish product was packed; and
- (c) where unpacked fish or fish product in the fish premises has been held at some other fish premises, the identity of those other fish premises; and
- (d) compliance with the requirements or the certification requirements of any foreign country to which any fish or fish product handled in fish premises has been or is to be exported; and
- (e) such other details as may be required by the Secretary for the purposes of these Regulations and notified to the licensee.

(2) Records required under this regulation shall be kept at an approved place in the Cook Islands or with an agent outside the Cook Islands if approved by the Secretary and in an approved manner for a period of not less than 3 years from the date on which they came into being.

(3) Notwithstanding subclause (2) of this regulation, the Secretary may, either by notice in writing to a licensee or by notice in the Gazette, reduce the period for which records are to be kept.

(4) Every licensee shall, when requested by the Secretary or an Authorised officer, immediately furnish the records required to be kept under this regulation and requested by the Secretary or by an Authorised officer. The licensee shall, if requested, also supply to the Secretary or to an Authorised officer copies of such records.

- (a) has been processed and packed in fish premises that has been licensed for that use; and
- (b) has been processed, packed, labelled, stored, and transported in accordance with the requirements; and
- (c) in the opinion of the person issuing the certificate the fish or fish product, is fit for human consumption; and
- (d) meets any overseas requirements that the Secretary has approved and advised to the licensee.

(3) Where required to meet overseas requirements or upon request by a licensee, an Authorised officer may duly issue certificates for fish byproducts.

(4) No certificate shall be issued pursuant to these Regulations other than by an Authorised officer or a person approved by the Secretary. Any approval given by the Secretary to any other person under this subclause may be the subject of such conditions as the Secretary may consider appropriate and may be revoked at any time by the Secretary.

(5) Any certificate issued under this regulation shall be in an approved form and shall be fully completed in an approved manner before being signed by an Authorised officer or a person approved by the Secretary. Any certificate not in accordance with this subclause shall be deemed not to have been issued under this regulation.

(6) Nothing in this regulation applies to any fish or fish product intended for export that is not intended for resale, where the amount of fish or fish product in any one consignment does not exceed 10 kg, unless an export certificate is required by the importing country.

16. Withdrawal of certificate - (1) Subject to subclause (2) of this regulation, the Secretary or an Authorised officer may, at any time and without having regard to the location of the certified consignment, withdraw a certificate issued under regulation 15 of these Regulations if -

- (a) the statements on the certificate are not accurate or are no longer true, whether or not in respect of all or some of the fish, fish products, or fish byproducts; or
- (b) the certificate is not or is no longer acceptable to the authorities in the country to which the fish, fish products, or fish byproducts are or were destined.

(2) The power to withdraw a certificate under this regulation may be exercised by the Secretary or an Authorised officer, notwithstanding that the person withdrawing the certificate did not issue the certificate.

(3) For the purposes of this regulation the Secretary or an Authorised officer may inspect any fish, fish product, or fish byproduct notwithstanding that a certificate has been issued in respect of that fish, fish product, or fish byproduct.

(4) Where a certificate has been withdrawn pursuant to subclause (1) of this regulation, the person withdrawing the certificate -

(2) In determining the content of any circular, the Secretary shall, so far as is reasonably practicable in the circumstances, consult with fishing licence holders, fishing vessel owners, fish exporters or seafood industry organisations for the time being considered by the Secretary, as appropriate, having regard to the subject matter of the proposed circular.

(3) The Secretary may in like manner amend or revoke any circular.

(4) Notice of the promulgation, amendment, or revocation of a circular under this regulation shall be given to every licensee to whom it applies.

20. Specific approvals - For the purposes of these Regulations, the Secretary may issue specific approvals in relation to the drawing up, accomplishment, demonstration, carrying on, or provision of any act, plan, proposal, matter, system, process or thing to which these Regulations apply, and the following provisions shall apply in relation to such approvals -

- (a) the approval shall be in writing;
- (b) the approval may be issued to any person or class of persons;
- (c) the approval may be unconditional or subject to such conditions as the Secretary thinks necessary;
- (d) the Secretary may amend or revoke any specific approval if the Secretary believes on reasonable grounds that -
 - (i) the approval has not consistently resulted in fish or fish products that are fit for human consumption; or
 - (ii) the licensee cannot be relied on to carry out, or may no longer be capable of carrying out, the conditions on which the approval was issued; or
 - (iii) the premises or appliances used in the premises are no longer suitable for the purpose for which the approval was issued.

21. Exemptions - (1) Upon application in an approved form accompanied by the prescribed fee (if any) the Secretary may, if satisfied that -

- (a) the refrigeration facilities are adequate; and
- (b) the conditions under which the fish are to be processed are such as to produce any fish or fish product suitable for export, -

exempt from licensing any fishing vessel conducting or intended to be used to conduct limited processing or any premises conducting or intended to be used to conduct whole fish processing, where the fish or fish product is not to be landed into or transported directly to fish premises for processing or packing or both.

(2) Any exemption granted under subclause (1) of this regulation may be subject to such conditions relating to the exempted premises as the Secretary thinks necessary and specifies in writing to the applicant; and the Secretary may at any time in like manner vary or revoke any such conditions or impose new conditions.

- (c) are fit for consumption or use for a purpose other than that for which they were intended.

24. Form and content of official assurance - (1) An official assurance may be in the form of a certificate or declaration or in such other form as may be determined by the Secretary.

(2) An official assurance may relate to -

- (a) one or more consignments of fish or fish product; or
- (b) one or more producers or processors or exporters of fish or fish product; or
- (c) one or more export destinations; or
- (d) any combination of the above.

(3) An official assurance may be communicated to its appropriate destination by writing, fax, electronic means, or any other form of communication that is accurate, clear, and verifiable.

(4) The Secretary may, by notice, issue specifications setting out requirements and procedures for the issue and control of official assurances.

25. Obtaining of official assurance - (1) A person who wishes to obtain an official assurance in respect of any fish or fish product for export may apply in a manner approved by the Secretary and must supply any information required by the Secretary and pay any prescribed fee (if any).

(2) The Secretary need not issue an official assurance unless satisfied that the information obtained from the applicant justifies the giving of the assurance.

26. Official assurance may be withdrawn and reissued - (1) An official assurance may be withdrawn by the Secretary or other authorised person if the Secretary or person is satisfied that -

- (a) the assurance was incorrectly or inappropriately given; or
- (b) events or circumstances occurring since the assurance was given mean that it no longer holds true, or is misleading.

(2) The Secretary or other authorised person may, on application in a manner approved by the Secretary and on payment of the prescribed fee (if any), reissue the official assurance (with any modifications, if appropriate) as a new official assurance.

27. Offences and penalties - (1) Every person commits an offence who:

- (a) fails to comply with any requirement imposed by or under these Regulations.
- (b) fails to provide any or records or information or who neglects or refuses to furnish any records or information when lawfully requested or required to do so by or under these Regulations.

charge, for the time being, of the registered office of the company or sending it by post or facsimile to the company at that office; or

- (iv) attaching it in a prominent place at the premises; or
- (v) delivering to an agent of the licensee.

(2) Any such writing sent by post shall, until the contrary is proved, be deemed to have been received by the person to whom it is sent, and at the time when the ordinary course of post it would have been delivered. Any such writing sent by facsimile shall, until the contrary is proved, be deemed to have been received by the person to whom it is sent on the day a confirmation of clear facsimile transmission is obtained by the sender.

Clerk of the Executive Council

These Regulations are administered by the Ministry of Health

BY AUTHORITY:
Cook Islands Government 2006

- (ii) at all stages in processing, the product is as fully protected from contamination so far as is practicable.

5. Stores and support areas shall be of a sanitary design having regard to their use.
Water supply.

6. The water supply shall be sourced, inspected, tested, and, where necessary, treated, and the reticulation system designed, constructed, and operated using approved means, so as to provide a potable water supply and to minimise the risk of contamination to the potable water.

7. Where clean seawater is used in the premises -

- (a) the supply of seawater shall be sourced, inspected, tested, and, where necessary, treated; and
- (b) the reticulation system shall be designed, constructed, maintained, and operated -

so as to minimise the risk of contamination to the clean seawater.

8. Where non potable water is used -

- (a) the supply of non potable water shall be sourced; and
- (b) the reticulation system shall be designed, constructed, maintained and operated—

so as to minimise the risk of contamination.

9. If required by the Secretary, water (including recycled water and clean seawater) shall be treated in an approved manner to ensure that it is of the required standard.

10. All water lines shall be identified using approved means so that potable water, clean seawater, and non-potable water lines are distinguishable.

11. The premises shall have a supply of hot water at an approved temperature which shall be sufficient to maintain the required hygiene standards in relation to the proposed operations in the premises.

Excess material disposal

12. The premises shall have

- (a) facilities sufficient to dispose of, in a manner that, in the opinion of an Authorised officer, minimises the risk of contamination and ensures that the unfit material is rendered inedible, all solid excess material produced in the premises when the premises are at a maximum level of production; and
- (b) sufficient drains to remove all liquid excess material produced in the premises during periods of maximum level of production so that there is no

Cleaning and sanitising

18. The premises shall have sufficient facilities of an approved type and in approved locations so as to meet required hygiene standards for persons, protective clothing, product areas, support areas, amenities, appliances, and operations.

Amenities for employees

19. The premises shall have amenities designed, located, built, and maintained, in an approved manner that -

- (a) provide sufficient space and fittings for employees to consume food, change clothes, store personal belongings, and attend to personal hygiene; and
- (b) facilitate cleanliness, tidiness, and the exclusion of vermin; and
- (c) do not open directly onto any product area.

Checks

20. Where checks are required as part of an approved process, there shall be provided in the premises appropriate working areas, appliances, facilities, materials, and personnel so that the checks can be carried out to the required standard.

Appliances

21. All appliances used in contact with fish, fish products, ingredients, or additives shall be made of food standard materials and shall be of a sanitary design.

22. All appliances used in fish premises other than those appliances referred to in clause 21 of this Part shall be of a type that minimises the risk of contamination.

23. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations.

PART 2**STANDARDS RELATING TO PERSONNEL****Health**

1. No person shall work as a product handler, or in an area in which contamination could occur (whether or not as a product handler), who -

- (a) is infected with or a carrier of a notifiable disease in communicable form (including any notifiable disease as defined in the Notifiable Diseases Ordinance 1953); or

3. Fish received into the product area of fish premises shall not
 - (a) have been grown in or taken from a place within an area; or
 - (b) be of a species or type -being from an area or of a species or type that the Secretary has advised the licensee under regulation 5(1) of these Regulations is unsafe due to contamination.
4. Fish declared by the Secretary to be subject to this clause under regulation 5(2) of these Regulations and received into a product area of fish premises shall have been grown in or taken from a place for which there is an approved monitoring programme to show that the place is not contaminated at the time of catching or harvesting.
5. Fish or fish products intended to be imported into the Cook Islands from outside the Cook Islands for processing or packing in fish premises for later export from the Cook Islands shall not be received into fish premises unless they have been approved by the Secretary.
6. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations

PART 4

STANDARDS RELATING TO LABELLING

1. All containers of fish, fish products, or fish byproducts intended to be exported from the Cook Islands shall be labelled in an approved manner.
2. All containers of fish or fish products transferred to, or between fish premises or from fishing vessels (including shellfish harvesting barges) to fish premises shall be labelled or identified in an approved manner.
3. All fish and fish products intended for sale on the domestic market shall be labelled in an approved manner (if any) to distinguish it from other fish or fish product.
4. Such other standards as may be specified by the Secretary in any circular issued under regulation 19 of these Regulations

PART 5

STANDARDS RELATING TO STORAGE AND TRANSPORTATION

1. Fish and fish products that are or may be intended for export, and have been processed or packed, shall not be stored before export otherwise than in fish premises or an export store.