
 SUBSIDIARY LEGISLATION

FISHERIES

The Fisheries (Transshipment and Export) Regulations 1990

(S. R. & O. No. 1 of 1990)

Made 13th June 1990

Published 18th June 1990

Commencing on publication

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance (a) in its application to the South Georgia and South Sandwich Islands under section 6(1) of and the Schedule to the Application of Colony Laws Ordinance (b) and section 12 of the South Georgia and South Sandwich Islands Order 1985 (c) and in exercise of my powers under section 9 of that Order and of all other powers me enabling, I make the following Order -

1. This Order may be cited as the Fisheries (Transshipment and Export) Regulations 1990 and shall come into force on publication in the Gazette.

Citation and
Commencement.

2. In these Regulations unless the context otherwise requires —

Interpretation.

“fish” means any marine animal and any part of any marine animal not being a mammal or bird or a part thereof, whether living or dead and whether fresh, frozen, cured rendered to fish meal or otherwise treated;

“fishing vessel” includes any ship, boat or other vessel used for fishing or transporting or processing fish;

“fisheries protection officer” means any person appointed by the Commissioner to be a fisheries protection officer;

“person” includes any body of persons;

“recognised harbour” means Cumberland Bay East and any other harbour declared under regulation 5 (2) below to be a recognised harbour;

“South Georgia and South Sandwich Islands waters” means the internal waters and territorial sea of South Georgia and the South Sandwich Islands.

3. (1) It is unlawful for any person —

Transshipment etc
without a licence
prohibited.

(a) to tranship any fish within South Georgia and South Sandwich Islands waters, and whether that fish was caught within those waters or not;

(b) to transport from those waters any fish which has been so transhipped;

unless that transshipment or, as the case may be, that transportation, is carried out under the authority of and in accordance with any conditions attached to or referred to in a licence granted under regulation 4(1) below.

(2) Without prejudice to the generality of paragraph (1) above, it is hereby expressly declared that “person” in that paragraph includes every person who is a member of the crew of or attached to or otherwise employed or engaged in relation to the operations of a fishing vessel and whether he is on board the vessel or not.

(3) A person who contravenes paragraph (1) above commits an offence.

4. (1) The Commissioner or any person authorised by him may grant to any person a licence to tranship fish within or transport fish from South Georgia and South Sandwich Islands waters or to do both those things.

Grant of
licences.

(2) A licence granted under paragraph (1) above may —

(a) Chapter 27 Laws of the Falkland Islands 1950 Edition Pages 237 and 238 (b) Chapter 1 (DS) Laws of the Falkland Islands 1950 Edition Pages 707 to 710 (c) S.I. 1985 No. 449

- (a) authorise one transshipment to a named vessel from another named vessel, or to a named vessel from any other vessel;
- (b) authorise a number of transshipments specified therein to a named vessel from another named or other named vessels or from any number of named vessels;
- (c) authorise transshipments within the period specified therein, without limit on the number of transshipments permitted, to any vessel from any other vessel or vessels named in the licence, or from any other vessels whatsoever, or from other vessels in common ownership or control;
- (d) authorise, by reference to quantity permitted, transportation by the vessel to which fish has been transhipped in accordance with the licence of the fish so transhipped;
- (e) authorise, by reference to a period of time, the transportation by the vessel of all fish which has been transhipped to it in accordance with the licence.

(3) Where a licence is granted on terms to which subparagraphs (a) or (b) of paragraph (2) above relate, there shall be payable a fee calculated in accordance with the Schedule below.

(4) Where a licence is granted on terms to which subparagraph (c) of paragraph (2) above relates there shall be payable such fee as the Commissioner may notify to the licensee.

(5) No fee shall be payable for a licence to transport fish which has been transhipped.

(6) A licence granted under paragraph (1) above shall enure in accordance with its tenor for the benefit of all persons carrying out any operation which would otherwise be prohibited by regulation 3 above.

(7) A licence granted under paragraph (1) shall require transshipment to take place in a recognised harbour, and may be granted subject to such other conditions as the Commissioner thinks fit.

5. (1) Cumberland Bay East is a recognised harbour.

Recognised
harbour.

(2) The Commissioner may by writing under his hand declare any other place within South Georgia and South Sandwich Islands waters to be a recognised harbour.

6. A person commits an offence who —

Other
requirements.

- (a) being the master of or in command of a fishing vessel, without reasonable excuse, fails to bring to when required to do so by any fisheries protection officer or upon signal of a government vessel; or
- (b) being aboard a fishing vessel, refuses to answer any questions put to him by a fisheries protection officer concerning fish to be or that has been transhipped or transported from South Georgia or South Sandwich Islands waters.

7. (1) A person who is convicted of an offence under regulation 3 is liable —

Penalties.

- (a) if a natural person to a fine not exceeding £10,000;
- (b) if a body corporate to a fine not exceeding £100,000.

(2) A person who is convicted of an offence under regulation 6 is liable to a fine not exceeding £2,000.

8. Where it is proved that an offence under regulation 3 has been committed by a natural person who is an employee of a body corporate or by a person who is acting as the agent of or on the instructions of a body corporate it is also proved that the body corporate has committed that offence and the corporation may be convicted of that offence as well as, or instead of that natural person and may be fined accordingly.

Offences by
body corporate.

9. A summons, charge or other process issued or made in respect of any offence under these Regulations is sufficiently served or brought if it or a copy of it is proved —

Service of
summons etc.

- (a) in the case of a natural person, to have been handed to him personally or to have been sent or transmitted to him at an address or location at which, in the opinion of the court, he is likely to have received it or to have had its contents or effect brought to his attention;

- (b) in the case of a body corporate, to have been sent or transmitted to —
 - (i) its registered office or principal place of business; or
 - (ii) any vessel of which the body corporate is the registered owner;
 - (iii) the master of any vessel of which the body corporate is the registered owner,

but no court may proceed on the basis of such service without the consent of the natural person or body corporate affected thereby until after the expiry of such period of time as the court considers fair and reasonable in all the circumstances.

10. The Magistrate's Court has jurisdiction to try any offence under jurisdiction of these Regulations and impose any fine authorised by them.

Magistrate's
Court to have
jurisdiction.

SCHEDULE

(regulation 4(3))

FEEES PAYABLE FOR CERTAIN TRANSHIPMENT LICENCES

For every transhipment - £1000.

Made this 13th day of June 1990.

W. H. FULLERTON,
*Commissioner for
South Georgia and
the South Sandwich
Islands.*

EXPLANATORY NOTE

(not forming part of above Regulations)

These Regulations prohibit the transhipment of fish or transportation of fish from internal waters and the territorial sea of South Georgia and the South Sandwich Islands without the authority of a licence. They also provide for the grant of licences to tranship or transport fish and for the payment of fees in respect of them.