

2012/23



**MARINE RESOURCES (SHARK CONSERVATION) REGULATIONS
2012**

Sir Frederick Goodwin, KBE

Queen's Representative

Order in Executive Council

At Avarua, Rarotonga this 19th day of December 2012

Present:

His Excellency the Queen's Representative in Executive Council

Pursuant to Section 92 of the Marine Resources Act 2005, His Excellency the Queen's Representative acting on the advice and with the consent of the Executive Council, makes the following regulations—

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Price \$1.50

Regulations

- 1 Title**
These regulations are the Marine Resources (Shark Conservation) Regulations 2012.
- 2 Commencement**
These regulations come into force on the day after the date on which these regulations are made.
- 3 Interpretation**
- (1) In these regulations, unless the context otherwise requires,—
- Act** means the Marine Resources Act 2005.
- Shark or sharks** means an animal commonly known as a shark, including all elasmobranchs such as rays, skates or chimaeras.
- Fin** means the fin or tail of a shark.
- Wire leader or trace wire** means a line, wire or leader with metal content used to connect a hook to a main, branch or other fishing line.
- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

Part 1 Sharks

- 4 Application of these regulations**
- (1) These regulations apply to:
- (a) all commercial fishing, including, but not limited to, exploratory fishing and designated fishery activities carried out under Sections 5 and 6 of the Act, and the transshipment of fish or fish products in the territorial waters, contiguous zone, or exclusive economic zone of the Cook Islands;
 - (b) every Cook Islands vessel, fishing vessel, or chartered fishing vessel registered under the Ship Registration Act 2007 (as amended) operating in the territorial waters, contiguous zone, or exclusive economic zone of the Cook Islands; and
 - (c) any unlicensed or illegal commercial fishing or transshipment of fish or fish products in the territorial waters, contiguous zone, or exclusive economic zone of the Cook Islands.

5 Prohibited acts**(1) No person may:**

- (a) catch, capture, target or otherwise intentionally engage in fishing (as that term is defined in Section 2 of the Act) for any shark;
 - (b) remove the fins of, or otherwise mutilate or injure, any shark; or
 - (c) chum for, or otherwise add substances to the water to attract, any shark.
- (2) If any shark is caught or captured, it must be immediately released, whether dead or alive, whole with fins naturally attached. If the shark is caught or captured alive, it must be released in the manner that affords it the greatest opportunity for survival. No shark, or any part of a shark, may be retained even if caught as bycatch.
- (3) No person may possess, receive, transfer, store, have on board, or transship any shark, or any part of a shark. For purposes of this subsection, there is a presumption that, if any shark or any part of a shark is found aboard a vessel, the shark or shark part was possessed or transferred in violation of this subsection.
- (4) No person may possess, sale, offer for sale, take, purchase, barter, transport, export, import, trade or distribute shark, shark fins or any part of a shark in the Cook Islands.

6 Restrictions on wire leaders

No vessel may possess, use or cause to be used as part of any fishing gear a wire leader or a trace wire for fishing (as that term is defined in Section 2 of the Act).

Part 2**General and miscellaneous provisions****7 Penalties**

- (1) Where any provision of these regulations is contravened or violated with respect to any vessel to which it applies, the master and owner of the vessel commits an offence against these regulations and are jointly and severally liable on summary conviction to a fine of not less than \$NZ 100,000 and not more than \$NZ 250,000.
- (2) Each shark constitutes a separate offence. If the fins of a shark have been removed, or a shark has otherwise been cut up, separated or dismembered in violation of Section 5 of these regulations, each piece of the shark constitutes a separate offence.
- (3) If the master or owner of any vessel is found liable for committing an offence against any provision of these regulations for a second or

subsequent occurrence, any license to conduct commercial fishing or transshipment of fish or fish products must be revoked and canceled pursuant to Section 41 of the Act. In addition, any vessel involved in a violation of these regulations must be prohibited from operating in waters within the jurisdiction of the Cook Islands.

8 Savings

All orders, licenses, permits, authorizations, agreements, or plans issued under the Ship Registration Act 2007 or the Act before the commencement of these regulations, except insofar as they are inconsistent these regulations, have effect as though made or given pursuant to the Ship Registration Act 2007, the Act or these regulations.

9 Severability

If any provision of these regulations or application of any provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of these regulations or the application of its provisions to persons or circumstances other than those to which it was held invalid must not be affected thereby.

Aukino Tairea
Acting Clerk of the Executive Council

These regulations are administered by the Ministry of Marine Resources.
These regulations were made on the _____ day of _____ 2012
