



REPUBLIC OF KIRIBATI

FISHERIES ACT 2010

(No. 6 of 2010)

SHARK SANCTUARY REGULATIONS 2015

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, makes the following Regulations:-

PART I - PRELIMINARY

1. Short title and commencement

These Regulations may be cited as the **Shark Sanctuary Regulations 2015** and shall come into force on the date of its publication by notice at the Office of the Beretitenti.

2. Purpose

The purpose of these Regulations are to:-

- (1) establish a shark sanctuary in Kiribati waters to ensure the conservation of sharks;
- (2) protect the balance of the marine ecosystem, including commercially important fish species and the health of marine habitats such as coral reefs;
- (3) help sustain and develop Kiribati's economy from shark and marine-related ecotourism;
and

- (4) further enhance the conservation reputation of Kiribati by joining other countries in the region in adopting measures to protect sharks.

3. Interpretation

- (1) In these Regulations:-

"Act" refers to the Fisheries Act 2010;

"authorized officer" shall have the same meaning in the Act and shall include any officer within the Fisheries Division who is authorized and appointed for the purpose of these Regulations;

"fish" has the same meaning as in the Act;

"shark" means the cartilaginous fish commonly known as a shark, and includes:

- (a) all species in:-
- (i) the Order *Hexanchiformes* (cow and frilled sharks); and
 - (ii) the Order *Squaliformes* (dogfish sharks); and
 - (iii) the Order *Pristiophoriformes* (sawsharks); and
 - (iv) the Order *Squatiniiformes* (angel sharks); and
 - (v) the Order *Heterodontiformes* (bullhead sharks); and
 - (vi) the Order *Orectolobiformes* (carpet sharks); and
 - (vii) the Order *Lamniformes* (mackerel sharks); and
 - (viii) the Order *Carcharhiniiformes* (ground sharks).
- (b) the dead body of a shark;

"shark fin" means the fin or tail of a shark;

"shark part" means any part of a shark, including squalene, cartilage, meat, skin, liver, oil and fin, and includes any product derived from a shark or shark part, but does not include the jaws or teeth of a shark;

"shark warranting special protection" means a shark of the species listed in Schedule 1;

"commercial purpose" means a purpose relating to the derivation of financial gain or reward;

"wire trace" means a length of fishing line made form wire (also known as steel trace or wire leader), used to attach a fishhook to another length of fishing line.

- (2) Unless the context otherwise requires, words and expressions used in these Regulations have the same meanings as they have in the Act.

PART II - CONSERVATION OF SHARKS

Establishment of the Kiribati Shark Sanctuary

4. Kiribati Shark Sanctuary

- (1) The Kiribati Shark Sanctuary is hereby established.
- (2) The Kiribati Shark Sanctuary comprises all Kiribati waters.

Offences

5. Shark fishing prohibited

- (1) A person must not, in the Kiribati Shark Sanctuary;
- (a) catch, capture or kill a shark;
 - (b) engage in fishing for shark; or
 - (c) remove a shark fin from, or otherwise mutilate or injure, a shark.

- (2) It is a defence to a prosecution under subsection (1)(a) if the defendant proves that the shark was;
 - (a) caught or captured inadvertently; and
 - (b) immediately released into the water, whether dead or alive.

6. Possession, etc., of shark and shark parts prohibited

- (1) A person must not possess or receive a shark or shark part.
- (2) A person must not sell or offer for sale, import or export a shark or shark part.
- (3) A fishing vessel in Kiribati waters must not have on board a shark or shark part.

7. Wire trace prohibited

- (1) A fishing vessel in the Kiribati Shark Sanctuary must not have on board wire trace.
- (2) A person must not use wire trace for fishing in the Kiribati Shark Sanctuary.

8. Certain actions are not offences

- (1) Regulations 5 and 6 do not apply to:-
 - (a) an action authorised by a valid permit issued under Regulation 9; or
 - (b) an action that is reasonably necessary to prevent a risk to human health.
- (2) Regulations 5(1) and 6(1) do not apply to an action of a person of I-Kiribati descent where:-
 - (a) the action is done for a purpose other than a commercial purpose; and
 - (b) the shark or shark part to which the action relates is not a shark warranting special protection or a shark part from such a shark.
- (3) Regulation 7(1) does not apply if the fishing vessel is a foreign fishing vessel that has

entered Kiribati waters for a purpose recognised by the United Nations Convention on the Law of the Sea.

9. Penalties

- (1) A person who contravenes regulation 5, 6 or 7 commits an offence and shall be liable upon conviction to a fine not more than \$8,000 or to a period of imprisonment of 4 months, or both.
- (2) If a fishing vessel is used in contravention of regulations 5 or 6, the fishing master, master, owner and any charterer of the vessel each commits an offence and shall be liable upon conviction to a maximum fine of \$10,000 or to a maximum period of imprisonment of 6 months or both.
- (3) Where the offence is a continuing one, a person shall be liable to a further fine not exceeding \$5,000 for every day that the offence has continued.
- (4) If a person is convicted of an offence of having contravened regulation 6, the shark or shark part shall be:-
 - (a) forfeited to the Republic; and
 - (b) destroyed as soon as is practicable.

PART III - PERMITS

10. Minister may issue permits

- (1) A person may apply to the Minister for a permit to be issued under sub regulation (3).
- (2) The application must be accompanied by a payment of the prescribed fee.
- (3) Subject to sub regulation (5), the Minister may, on application by a person under sub regulation (1), issue the permit to that person.

- (4) A permit authorises its holder to take an action specified in the permit without contravening regulations 5, 6 and 7.
- (5) The Minister must not issue the permit unless satisfied that:-
- (a) the specified action:-
 - (i) will contribute significantly to the conservation of sharks; or
 - (ii) relates to an object of cultural or historical importance to Kiribati; and
 - (b) if the specified action will interfere with sharks, the interference is incidental to, and not the purpose of, the taking of the action and:-
 - (i) the taking of the action will not adversely affect the conservation status of a species of shark or a population of that species;
 - (ii) the taking of the action is not inconsistent with a fishery management plan that is in force for a species of shark; and
 - (iii) the holder of the permit will take all reasonable steps to minimise the interference with sharks.
- (6) A permit is subject to such conditions as are specified in the permit or as are imposed under sub regulation (7).
- (7) The Minister may:-
- (a) vary or revoke a condition of a permit;
 - (b) impose further conditions of a permit;
 - (c) suspend a permit for a specified period; or
 - (d) cancel a permit
- (8) In this section, "interfere" with a shark includes harass, chase, herd, tag, mark or brand the shark.

11. Contravening conditions of a permit

The holder of a permit who contravenes a condition of the permit commits an offence.

Penalty: A fine of \$10,000 and/or imprisonment for 6 months.

PART IV - ENFORCEMENT

12. Administration by the office of the Director of Fisheries

- (1) The Office of the Director of Fisheries is responsible for the administration of these Regulations.
- (2) The Director may from time to time appoint Authorized Officers to execute the responsibilities under these regulations.

13. Powers of Authorized Officers

- (1) In enforcing these Regulations, an authorized officer may, without a warrant or other process, do any of the things or exercise any of the powers authorised under the Act.
- (2) If an authorized officer has reasonable grounds to believe an offence against these Regulations is being or has been committed, the officer may, without a warrant, do any of the things or exercise any of the powers authorised under the Act.
- (3) An authorized officer may:-
 - (a) execute a warrant or other process issued by a court of competent jurisdiction;
 - and
 - (b) exercise any other lawful authority.

14. Authorized officers to provide identification

When exercising powers under these Regulations, an authorized officer must, if asked to do so, produce an identification document or other evidence that may be reasonably sufficient to show

that he or she is an authorized officer.

15. Protection of authorized officers

An authorized officer is not personally liable for any act done or omitted to be done by the officer in good faith in the execution or purported execution of powers and duties under these Regulations.

16. Offences relating to authorized officers

(1) The master and each crew member of a vessel, the driver of a vehicle and the pilot and crew of an aircraft must:-

- (a) immediately comply with every instruction or direction given by an authorized officer;
- (b) facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft;
- (c) facilitate the inspection of any catch, fishing gear or records; and
- (d) take all reasonable measures to ensure the safety of an authorized officer in the performance of the officer's duties.

(2) A person must not:-

- (a) assault, obstruct, resist, delay or refuse boarding to, intimidate or otherwise interfere with an authorized officer in the performance of the officer's duty;
- (b) fail to take all reasonable steps to ensure the safety of an authorized officer in the performance of the officer's duty;
- (c) incite or encourage any other person to contravene paragraph (a) or (b);
- (d) use threatening language or behave in a threatening manner to an authorized officer;
- (e) fail to comply with the lawful instructions or requirements of an authorized officer;
- (f) give to an authorized officer any information that is false or misleading; or
- (g) impersonate an authorized officer.

(3) A person who contravenes a provision of these regulations commits an offence.

Penalty: A fine of \$5,000, and/or imprisonment for 3 months.

17. Destroying or disposing of evidence

A person who is on board a vessel being pursued or about to be boarded by an authorized officer must not throw overboard or destroy a shark, shark part, fishing gear, or other thing, to avoid the seizure of the shark; shark part, fishing gear or other thing, to avoid the seizure of the shark, shark part, fishing gear or other thing, or the detection of an offence under these Regulations.

Penalty: A fine of \$5,000 and/or imprisonment for 6 months.

PART V - MISCELLANEOUS

18. Amendments to Schedules

The Minister may, on the recommendation of the Director of Fisheries and in conformity with the Act, by Order in the Gazette amend any Schedule made under these Regulations.

19. Penalty Notice Offence

A penalty notice may be served for an offence against these Regulations pursuant to the requirement set out in section 41 of the Act.

SCHEDULE 1

(Regulation 3)

SHARKS WARRANTING SPECIAL PROTECTION


- (1) *Carchahinus longimanus* (oceanic whitetip shark)
- (2) *Carcharhinus faleiformis* (silky shark)
- (3) *Rhincodon typus* (whale shark)
- (4) *Carcharodon carcharias* (great white shark)
- (5) *Cetorhinus maximus* (basking shark)

Dated this 10th day of April, 2015.



Anote Tong
Beretitenti

Published by exhibition at the Public Office of the Beretitenti this 10th day of April, 2015.



Teea Tiira
Secretary to the Cabinet