

Version
as at 28 October 2021



Fisheries (Geospatial Position Reporting) Regulations 2017 (LI 2017/155)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 10th day of July 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under sections 296B, 296ZI, 297, and 304(1) of the Fisheries Act 1996—

- (a) on the advice and with the consent of the Executive Council; and
- (b) in relation to the item in Schedule 2 of these regulations relating to the Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2013, on the recommendation of the Minister for Primary Industries made after complying with section 296B of the Fisheries Act 1996.

Contents

	Page
1 Title	2
2 Commencement	2

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry for Primary Industries.

3	Interpretation	2
4	Transitional, savings, and related provisions	3
5	Obligation to carry and operate geospatial position reporting device	3
6	Circulars specifying standards and requirements relating to geospatial position reporting devices	3
7	Registration of geospatial position reporting devices	4
8	Responsibilities under these regulations	5
9	Offences and penalties	5
10	Defences	6
11	Exemptions	6
12	Revocation	7
13	Consequential amendments to other enactments	7
	Schedule 1	8
	Transitional, savings, and related provisions	
	Schedule 2	10
	Consequential amendments to other enactments	

Regulations

1 Title

These regulations are the Fisheries (Geospatial Position Reporting) Regulations 2017.

2 Commencement

These regulations come into force on 1 October 2017.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Fisheries Act 1996

commercial fisher has the same meaning as in regulation 3 of the Fisheries (Commercial Fishing) Regulations 2001

fishing trip has the same meaning as in regulation 3 of the Fisheries (Reporting) Regulations 2017

foreign licensed fishing vessel means a foreign fishing vessel licensed under section 83 of the Act

geospatial position reporting device means a device that complies with the appropriate standards and requirements specified by the chief executive under regulation 6

New Zealand fishing vessel means any fishing vessel registered under section 103 of the Act

purse seine net has the same meaning as in regulation 3 of the Fisheries (Commercial Fishing) Regulations 2001.

Compare: SR 1993/354 r 2

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

5 Obligation to carry and operate geospatial position reporting device

- (1) A geospatial position reporting device must be carried and operated on board—
 - (a) New Zealand fishing vessels; and
 - (b) foreign licensed fishing vessels; and
 - (c) registered fish carriers; and
 - (d) any other kind of vessel used for commercial fishing, except tenders deployed from any vessel using any purse seine net.
- (2) A geospatial position reporting device must be carried and operated by commercial fishers who are fishing without a vessel referred to in subclause (1).
- (3) Every operator and master of a vessel (except a tender deployed from any vessel using any purse seine net) must ensure that the geospatial position reporting device carried on that vessel operates continuously while that vessel is being used for fishing or transportation.
- (4) Every commercial fisher referred to in subclause (2) must ensure that the geospatial position reporting device operates continuously from immediately before the fishing trip starts until that fishing trip ends.

Compare: SR 1993/354 r 3

6 Circulars specifying standards and requirements relating to geospatial position reporting devices

- (1) The chief executive may issue, amend, or revoke a circular that specifies technical details relating to geospatial position reporting devices, including—
 - (a) the place in which a geospatial position reporting device is to be installed and the method of installation;
 - (b) requirements as to the form, frequency, and detail of information to be supplied to the chief executive in relation to vessels or commercial fishers required to carry a geospatial position reporting device, and the places and times at which the information is to be supplied;
 - (c) the manner in which geospatial position reporting devices are to be registered in accordance with regulation 7;
 - (d) the minimum standards and requirements for the operation of geospatial position reporting devices, including requirements relating to when those devices are to be operated;

- (e) the minimum standards and requirements for the system used to transmit information from geospatial position reporting devices.
- (2) Different standards and requirements may be specified for different types of geospatial position reporting devices.
- (3) Before issuing, amending, or revoking a circular, the chief executive must consult, to the extent practicable, any persons considered by the chief executive to be representative of the classes of persons likely to be substantially affected by the circular.
- (4) A circular issued under subclause (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: SR 1993/354 r 4

Legislation Act 2019 requirements for secondary legislation made under this regulation

Publication	The maker must:	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	• publish it on a website maintained by, or on behalf of, the maker	
	• if a circular is amended, publish an up to date version of it as amended	
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the secondary legislation.

Regulation 6(1)(d): amended, on 10 January 2019, by regulation 4 of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

Regulation 6(4): replaced, on 28 October 2021 by regulation 39 of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

7 Registration of geospatial position reporting devices

- (1) The chief executive must register a geospatial position reporting device if a person applies in writing in an approved form and pays the prescribed fee (if any).
- (2) An application for registration must be supported by—
- (a) any information that may be specified for the purpose under regulation 6; and
- (b) any additional information that the chief executive may specify in writing to the applicant.
- (3) The chief executive may make the registration of any geospatial position reporting device subject to any reasonable conditions that he or she may specify in writing to the applicant.
- (4) The chief executive may cancel the registration of any geospatial position reporting device if there is no longer any need to register the device (for example, because the device has been or is to be replaced or the vessel on

which it was carried has been or is to be sold) and notify the holder that the registration has been cancelled.

Compare: SR 1993/354 r 6

8 Responsibilities under these regulations

- (1) Every operator and master of a vessel referred to in regulation 5(1) and every commercial fisher referred to in regulation 5(2) must ensure that—
 - (a) a geospatial position reporting device is carried and operated in accordance with regulation 5; and
 - (b) the geospatial position reporting device is carried and operated in accordance with requirements specified under regulation 6; and
 - (c) the geospatial position reporting device transmits information in accordance with the standards and requirements specified by the chief executive under regulation 6; and
 - (d) the geospatial position reporting device is registered under regulation 7; and
 - (e) the chief executive is notified, by the most practicable means and at the first reasonable opportunity, if a geospatial position reporting device fails to work properly;
 - (f) any directions of the chief executive issued under subclause (2) are complied with.
- (2) The chief executive may issue to an operator and master of a vessel referred to in regulation 5(1) or a commercial fisher referred to in regulation 5(2) any direction that the chief executive considers is reasonably necessary for the purpose of managing any risks associated with a failure of a geospatial position reporting device to work properly.

Compare: SR 1993/354 r 7

Regulation 8(1)(e): replaced, on 10 January 2019, by regulation 5(1) of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

Regulation 8(1)(f): inserted, on 10 January 2019, by regulation 5(1) of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

Regulation 8(2): inserted, on 10 January 2019, by regulation 5(2) of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

9 Offences and penalties

- (1) A person commits an offence if the person,—
 - (a) without an exemption from the chief executive, removes from a vessel or fish carrier any geospatial position reporting device that is required to be carried and operated; or
 - (b) without an exemption from the chief executive, fails to carry and operate any geospatial position reporting device in accordance with these regulations; or

- (c) interferes with any geospatial position reporting device to such an extent that the device no longer complies with the standards and requirements specified under regulation 6; or
 - (d) fails to notify the chief executive of any matter required by or under these regulations to be notified to the chief executive; or
 - (e) fails to register a geospatial reporting device under regulation 7; or
 - (f) fails to comply with a direction of the chief executive issued to that person in accordance with regulation 8(2).
- (2) However, a person does not commit an offence against subclause (1)(a) if the person removes the device following notification under regulation 8(e).
- (3) A person who commits an offence against subclause (1) is liable on conviction—
- (a) to a fine not exceeding \$100,000; and
 - (b) if the offence is a continuing offence, to a further fine not exceeding \$1,000 for each day on which the offence continues.

Compare: SR 1993/354 r 8

Regulation 9(1)(f): inserted, on 10 January 2019, by regulation 6(1) of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

Regulation 9(2): amended, on 10 January 2019, by regulation 6(2) of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

10 Defences

It is a defence to prosecution for an offence against regulation 9(1) if the defendant proves that—

- (a) the offence occurred as a result of an accident, or a mechanical or technical failure (other than a mechanical or technical failure of a nature that could have been avoided with adequate maintenance); and
- (b) the defendant acted reasonably in the circumstances.

Compare: SR 1993/354 r 9

11 Exemptions

- (1) If the chief executive is satisfied that it is unreasonable or impracticable for any person or vessel to comply with any requirements prescribed by or under these regulations, the chief executive may exempt that person or vessel from compliance with all or any of those requirements.
- (2) An exemption under subclause (1)—
- (a) must be in writing; and
 - (b) may be granted subject to any conditions that the chief executive may reasonably impose and has effect according to its terms; and
 - (c) may be amended or revoked to reflect changed circumstances.

Compare: SR 1993/354 r 10

12 Revocation

The Fisheries (Satellite Vessel Monitoring) Regulations 1993 (SR 1993/354) are revoked.

13 Consequential amendments to other enactments

Amend the enactments specified in Schedule 2 as set out in that schedule.

Schedule 1

Transitional, savings, and related provisions

r 4

Part 1

Provisions relating to these regulations as made

1 Interpretation

In this Part, **former regulations** means the Fisheries (Satellite Vessel Monitoring) Regulations 1993.

2 Existing registered devices

Automatic location communicators registered under regulation 6 of the former regulations must be treated as if they were registered as geospatial position reporting devices, subject to the same terms and conditions (if any), under regulation 7 of these regulations.

3 Certain vessels may comply with former regulations or these regulations between 1 October 2017 and 31 March 2018

- (1) This clause applies to every vessel referred to in regulation 5(1), except a vessel that has an overall length that exceeds 28 m and is being used in fishing with a trawl net.
- (2) On and from 1 October 2017 until the close of 31 March 2018,—
 - (a) compliance with the applicable requirements of the former regulations is sufficient compliance with these regulations; and
 - (b) there is no need to comply with any requirement in these regulations that was not in the former regulations.

4 Temporary exemption for voyage or fishing underway at commencement of these regulations

- (1) This clause applies if a vessel or fish carrier referred to in regulation 5(1) or a commercial fisher referred to in regulation 5(2) has commenced, but not completed, a fishing trip when these regulations come into force.
- (2) While the vessel or carrier is at sea on that occasion,—
 - (a) compliance with the applicable requirements of the former regulations is sufficient compliance with these regulations; and
 - (b) there is no need to comply with any requirement in these regulations that was not in the former regulations.
- (3) While the commercial fisher is fishing on that occasion, the commercial fisher is not required to comply with these regulations.
- (4) The exemption expires at the end of the fishing trip.

- (5) If the vessel was not required by the former regulations to carry and operate an automatic location communicator, it is not required to carry and operate a geospatial position reporting device while the exemption continues in force.

Part 2

Provisions relating to Fisheries (Geospatial Position Reporting) Amendment Regulations 2018

Schedule 1 Part 2: inserted, on 10 January 2019, by regulation 7 of the Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260).

5 **Date of required compliance with these regulations linked to date of required compliance with new reporting requirements**

- (1) A commercial fisher who fishes without a vessel referred to in regulation 5(1) must comply with these regulations on and from the date on which the person is required to comply with the new reporting requirements (*see* Part 3 of Schedule 1 of the Fisheries (Reporting) Regulations 2017).
- (2) Every operator and master of a vessel (except a tender deployed from any vessel using any purse seine net) that is or is to be used for commercial fishing by a permit holder must comply with these regulations on and from the date on which the permit holder is required to comply with the new reporting requirements (*see* Part 3 of Schedule 1 of the Fisheries (Reporting) Regulations 2017).
- (3) In this clause,—

new reporting requirements has the meaning given in clause 51 of Schedule 1 of the Fisheries (Reporting) Regulations 2017

permit holder means a person who holds a fishing permit issued under section 91 of the Act.

Schedule 2

Consequential amendments to other enactments

r 13

Fisheries (Commercial Fishing) Regulations 2001 (SR 2001/253)

In regulation 3, revoke the definition of **automatic location communicator**.

In regulation 3, insert in its appropriate alphabetical order:

geospatial position reporting device has the same meaning as in regulation 3 of the Fisheries (Geospatial Position Reporting) Regulations 2017

In regulation 76A(2), replace “carrying and operating an automatic location communicator on board a New Zealand fishing vessel that is being used” with “using a New Zealand fishing vessel”.

In Schedule 2, revoke clause 16.

Fisheries (Demerit Points and Civil Penalties) Regulations 2001 (SR 2001/283)

In Schedule 1, item 16(10), replace “automatic location communicators” with “geospatial position reporting devices”.

Fisheries (Transfer of Functions, Duties, and Powers to Commercial Fisheries Services Limited) Order 2013 (SR 2013/333)

In the Schedule, Part 2, replace paragraph (7) with:

- (7) in the Fisheries (Geospatial Position Reporting) Regulations 2017,—
- (a) regulation 7(1):
 - (b) the power in regulation 7(4) to cancel the registration of a geospatial position reporting device:
 - (c) the function, duty, or power to receive applications and notify decisions, amendments, and revocations under the regulations.

In the Schedule, Part 3, replace paragraphs (18) to (20) with:

- (18) to receive applications to register geospatial position reporting devices:
- (19) to receive applications for exemptions under the Fisheries (Geospatial Position Reporting) Regulations 2017:
- (20) to notify the holder of a registered geospatial position reporting device of the cancellation of the registration:

Michael Webster,
Clerk of the Executive Council.

Notes

1 *General*

This is a consolidation of the Fisheries (Geospatial Position Reporting) Regulations 2017 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248): regulation 39

Fisheries (Geospatial Position Reporting) Amendment Regulations 2018 (LI 2018/260)