

1991/14



MANIHIKI PEARL AND PEARL SHELL BY-LAWS 1991

A.P. Short,

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 2nd day of September 1991

Present:

HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE
IN EXECUTIVE COUNCIL

PURSUANT to Sections 15 and 16 of the Outer Island Local Government Act 1987 and Section 5 of the Marine Resources Act 1989 the Queen's Representative acting by and with the advice and consent of the Executive Council, hereby makes the following By-laws.

ANALYSIS

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| 2. Application of the By-Laws | | <u>CULTURE PEARL FARMING PERMIT</u> |
| 3. Interpretation | 10. No Pearl Farming Seeding without a Permit | |
| <u>PART I</u> | | |
| <u>FREE DIVING</u> | 11. Pearl Shell Farming Permit a prerequisite for Culture Pearl Farming Permit | |
| 4. No Free Diving without a permit | 12. Council may grant Culture Pearl Farming Permits | |
| 5. Council may grant Pearl Shell Diving Permits | <u>PART IV</u> | |
| 6. Free Diving only permitted | <u>TECHNICIANS</u> | |
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| <u>PEARL FARMING</u> | | |
| 8. No Pearl Farming without a permit | | |
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<p>14. Technicians must be competent</p> <p>15. Work History to be supplied to Island Council</p> <p>16. Conditions on Technicians</p>	<p style="text-align: center;"><u>PART V</u> <u>ENFORCEMENT</u></p> <p>17. Enforcement by Police of these By-Laws</p> <p style="text-align: center;"><u>PENALTIES</u></p> <p>18. Penalty</p> <p>19. Savings</p>
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BY-LAWS

By-laws to provide for the management of pearl and pearl resource in the Manihiki Lagoon

1. Title and Commencement - These By-laws may be cited as the Manihiki Pearl and Pearl Shell By-laws 1991.
2. Application of these By-laws - These By-laws shall apply to the Island of Manihiki.
3. Interpretation - In these By-laws unless the context otherwise requires;
 - "Island Council" means the Island Council of Manihiki.
 - "Lagoon" means the Manihiki Lagoon.
 - "Technician" means any person who seeds, cultivates or otherwise cause to be grown artificially any pearl.
 - "Underwater breathing apparatus" means any apparatus capable of being used for providing breathable gases underwater, and includes self contained underwater breathing apparatus (commonly known as "scuba") but does not include any snorkel.

PART I FREE DIVING

4. No Free Diving without a permit - Any person diving for naturally occurring pearl shell must first obtain a Pearl Shell Diving Permit from the Island Council.
5. Council may grant Pearl Shell Diving permits - Subject to these By-laws and to the provisions of any Act, the Council may grant to an applicant a permit subject to such conditions and for such period as the Council thinks fit, to take any naturally occurring pearl shell.
6. Free Diving only permitted - No underwater breathing apparatus shall be used by any person diving for naturally occurring shell.
7. Power to revoke pearl Shell Diving permits - (1) The Island Council has the power to revoke all or any of the Pearl Shell Diving Permits by public notice if it considers that naturally occurring pearl shell stocks in the lagoon are over exploited or are likely to be over exploited.
 (2) Such public notice shall be in writing and posted on the public notice board of the Post Office in both villages of Manihiki, being the village of Tauhunu and the village of Tukao.

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PART II PEARL FARMING

8. No Pearl Farming without a permit - Any person farming pearl shell, including the collection of spat on spat collectors must first obtain a Pearl Shell Farming Permit from the Island Council.

9. Council may grant Pearl Shell Farming Permit - Subject to these By-laws and to the provisions of any Act, the Council may grant a Pearl Shell Farming permit to an applicant subject to such conditions and for such period as the Council thinks fit, to farm pearl shell in the lagoon.

PART III CULTURE PEARL FARMING PERMIT

10. No Pearl Seeding without a permit - Any person who wishes to seed, cultivate or otherwise cause to be grown artificially any pearl must first obtain a Culture Pearl Farming Permit from the Island Council.

11. Pearl Shell Farming permit a prerequisite for culture pearl farming permit - No Culture Pearl Farming Permit shall be issued to any person unless that person holds a current pearl Shell Farming Permit.

12. Council may grant Culture Pearl Farming Permit - Subject to these By-laws and to the provisions of any Act, the Council may grant a Culture Pearl Farming Permit, to an applicant subject to such conditions and for such period as the Council thinks fit, to grow pearls in the lagoon.

PART IV TECHNICIANS

13. Technicians must have approval of Island Council - No Technician shall seed pearl shell by the implanting of nuclei or otherwise work in Manihiki without the approval of the Island Council.

14. Technicians must be competent - No approval for any Technician shall be given by the Island Council until the Island Council is satisfied that such Technician is competent.

15. Work history to be supplied to the Island Council - Each application to the Island Council on behalf of any Technician must be accompanied with a written record of the Technician's work history and qualifications, if any.

16. Conditions on Technicians - Upon granting approval for any Technician to work in Manihiki, the Island Council has the right to impose any reasonable conditions to regulate or control the work of the Technician.

PART V ENFORCEMENT

17. Enforcement by Police of these By-laws - Every member of the Police shall enforce the provisions of these By-laws and shall have and may exercise the powers conferred upon the Police by Section 19 of the Outer Islands Local Government Act 1987.

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18. Powers of Police - A Police Officer, if he has reasonable cause to suspect that a person has committed an offence against these By-laws, may, without warrant:

- (a) enter upon any premises, boat or pearl farm and conduct searches and whenever necessary, enforce the provisions of these By-laws;
- (b) to open and search whenever necessary any package, box, baggage and any other container or whatever kind to determine whether or not any breach of these By-laws has been committed;
- (c) to confiscate all the pearl shell found in the possession of a person contrary to the provisions of these By-laws and to dispose of such pearl shell in the manner directed by resolution of the Island Council;
- (d) to institute or cause to be instituted any legal action against any person who has committed a breach of any of the provisions of these By-laws;
- (e) to demand the production of any permit for inspection.

PART VI
PENALTIES

19. Penalty - (1) Every person commits an offence who acts in contravention of these By-laws or in contravention of any permit issued hereunder and shall on conviction be liable -

- (a) in respect of an offence under Parts I to III of these By-laws to a fine not exceeding \$500.00 or to 3 months imprisonment or to both such fine and imprisonment;
- (b) in respect of an offence under Part IV of these By-laws to a fine not exceeding \$2,000.00 and, if the offence is a continuing one, to a further fine not exceeding \$500.00 for every day that the offence has continued or to 1 year imprisonment, or to both such fine and imprisonment.

(2) The Court may, in addition to any other penalty order the forfeiture to the Island Council of any boat, underwater breathing apparatus, farming equipment, seeding equipment or any other property of whatever nature used by the offender in the commission of any offence under these By-laws.

20. Savings - Notwithstanding these By-laws any permit related to the diving, cultivation and seeding of pearl shell and any approval for any technician granted before the coming into force of these By-laws shall remain in force as if it were granted pursuant to these By-laws.

M. Taruia
Clerk of the Executive Council