

CHAPTER 38:04 - FISH PROTECTION: SUBSIDIARY LEGISLATION

INDEX TO SUBSIDIARY LEGISLATION

Fish Protection Regulations

FISH PROTECTION REGULATIONS

(section 3)

(23rd May, 2008)

ARRANGEMENT OF PARAGRAPHS

REGULATION

1. Citation
2. Interpretation
3. Application
4. Prohibition of catching fish without licence
5. Application for commercial fishing licence
6. Commercial fishing licence
7. Duplicate fishing licence
8. Restriction on size of gill nets
9. Prohibition of importation of gill nets
10. Prohibition of sale of gill nets
11. Open season
12. Permits that may be granted by the Director
13. Conditions applicable to permits
14. Appeals
15. Prohibition of fishing without recreational licence
16. Recreational fishing competitions
17. Catching fish without permission of landowner or occupier
18. Power to search
19. Fishing at night
20. Prohibited fishing practices
21. Prohibition of moving fish from one water body to another
22. General penalty

First Schedule
Second Schedule
Third Schedule
Fourth Schedule
Fifth Schedule
Sixth Schedule
Seventh Schedule
Eighth Schedule
Ninth Schedule
Tenth Schedule
Eleventh Schedule
Twelfth Schedule

S.I. 41, 2008.

1. Citation

These Regulations may be cited as the Fish Protection Regulations.

2. Interpretation

In these Regulations unless the context otherwise requires-

"**Act**" means the Fish Protection Act;

"**authorised officer**" has the same meaning as in section 2 of the Act;

"**commercial fishing**" means the catching of fish by the use of factory made gill nets or any gill net made out of factory made materials such as leads, twines, corks, etc;

"**Director**" means the Director of Wildlife and National Parks;

"**drive fishing**" means the driving of fish into a gill net;

"**game reserve**" has the same meaning as in the Wildlife Conservation and National Parks Act;

"**national park**" has the same meaning as in the Wildlife Conservation and National Parks Act;

"**night**" means the period of time between 8 o'clock in the evening and 4 o'clock in the morning;

"**open season**" means the period of time stipulated under regulation 11 as the period during which fish may be caught;

"**recreational fishing**" means fishing done on the basis of leisure and sport, using rod and line;

"**seining**" means the dragging of a net along the bottom of a water body with the ends of such net being drawn together to catch fish; and

"**water body**" means a river, stream, watercourse, canal, lake, dam, pond, lagoon, swamp, flood plain, reservoir, spring, aquarium or other similar structure.

3. Application

These Regulations shall not apply within a game reserve or national park.

4. Prohibition of catching fish without licence

(1) No person shall engage in commercial fishing without a commercial fishing licence.

(2) Any person who contravenes subregulation (1) shall be guilty of an offence and liable to a fine not exceeding P200, or to imprisonment for a term not exceeding three months.

5. Application for commercial fishing licence

(1) An application for a commercial fishing licence shall be made in the form set out in the First Schedule.

(2) An authorised officer may issue a commercial fishing licence to anyone who-

- (a) is a citizen of Botswana;
- (b) is over the age of 18;
- (c) has not been convicted of an offence under the Act, or the Wildlife Conservation and National Parks Act; and
- (d) has paid a fee of P200.

6. Commercial fishing licence

(1) A commercial fishing licence shall be in the form set out in the Second Schedule and shall be valid for three calendar years commencing on the date of its issue.

(2) A commercial fishing licence shall not be transferable and the holder or any person authorised by the holder shall carry the original copy thereof at all times while fishing.

(3) The holder of a commercial fishing licence shall make it available for inspection when required to do so by an authorised officer.

(4) If a commercial fishing licence is lost or destroyed, the licence holder shall, within 30 days of such loss or destruction, report the event in writing to an authorised officer.

(5) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding six months.

7. Duplicate fishing licence

Where an authorised officer who is informed of the loss or destruction of a fishing licence is satisfied of the loss or destruction thereof, he or she shall issue to the licence holder a duplicate fishing licence on payment of P100.

8. Restriction on size of gill nets

(1) No person shall catch fish with gill nets exceeding a total length of 150 metres.

(2) Any person who contravenes the provisions of this regulation shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction, to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

9. Prohibition of importation of gill nets

(1) No person shall import any gill nets except under and in accordance with a gill net import permit issued in terms of this regulation.

(2) An application for a gill net import permit shall be made to the Director in the form set out in the Third Schedule.

(3) A gill net import permit, in the form set out in the Fourth Schedule, shall be issued on payment of a fee of P100 and shall be valid for one month from the date of issue.

(4) Any person who imports a gill net without a gill net import permit shall be guilty of an

offence and liable to a fine not exceeding P500, or to imprisonment for a term not exceeding six months, or to both.

10. Prohibition of sale of gill nets

(1) No person shall sell gill nets except under and in accordance with a gill net dealer's permit issued in terms of this regulation.

(2) An application for a gill net dealer's permit shall be in the form set out in the Fifth Schedule.

(3) A gill net dealer's permit, in the form set out in the Sixth Schedule, shall be issued on payment of a fee of P500 and shall be valid for one year from the date of issue.

(4) A gill net dealer shall not sell gill nets to any person who is not a holder of a commercial fishing licence.

(5) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

11. Open season

(1) The period of time during which fish may be caught shall be the period beginning on 1st March and ending on 31st December every year.

(2) Any person who catches fish during the period beginning on 1st January and ending on 29th February shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

(3) The Director shall cancel the licence or permit of any person who has been convicted of a second offence under this regulation and such person shall be banned from fishing for the next two open seasons.

12. Permits that may be granted by the Director

(1) The Director may, acting in accordance with such directions as may be given by the Minister, grant permits authorising-

- (a) the killing or capturing of any fish for the purposes of education or scientific research, providing specimens for museums, zoological gardens and similar institutions; or
- (b) the capturing of any fish for the breeding or farming of such fish.

(2) No fish caught or killed under subregulation (1) shall be sold.

(3) Permits issued in terms of subregulation (1) (b) shall be issued on payment of a fee of P50 for every hundred fish intended to be caught by the applicant.

(4) A permit issued under this regulation shall be in the form set out in the Seventh

Schedule.

13. Conditions applicable to permits

(1) Every permit issued under regulation 12 shall be subject to such terms and conditions as the Director deems fit to impose in each case, and such terms and conditions shall be endorsed on the permit.

(2) Any person to whom a permit is issued under regulation 12 who contravenes any of its terms, conditions or requirements shall be guilty of an offence and liable to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, or to both.

(3) The Director may, at any time and without assigning a reason therefore, cancel, amend or modify a permit issued under regulation 12, forthwith so informing the holder of such permit, and such holder shall return the permit to the Director for cancellation, amendment, or modification, as the case may be, within 21 days from the date of his or her being so informed.

(4) Any permit holder who is required under subregulation (3) to return such permit and who fails to do so within the period specified, shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months.

14. Appeals

Any person who is aggrieved by the refusal of the Director to grant a permit under regulation 12, or by any terms imposed by the Director to grant a permit under regulation 12, may appeal against the refusal or the terms and conditions to the Minister.

15. Prohibition of fishing without recreational licence

(1) No person shall undertake recreational fishing in Botswana unless he or she is in possession of a recreational fishing licence issued by the Director.

(2) A licence under subregulation (1) shall be in the form set out in the Eighth Schedule and shall be accompanied by a fee set out in the Ninth Schedule.

(3) No person engaged in recreational fishing shall catch and keep more than five fish in one day.

(4) An annual fishing permit shall be issued to a fishing camp in the form set out in the Ninth Schedule.

16. Recreational fishing competitions

(1) Any person intending to stage a recreational fishing competition shall apply to the Director for a recreational fishing competition permit, in the form set out in the Tenth Schedule, at least two months before the date of such competition, giving the time and place thereof and the rules and conditions governing the competition for approval by the Director.

(2) A recreational fishing competition permit shall be issued by the Director on the payment of a fee of P5,000.

(3) No person shall participate in a recreational fishing competition unless he or she possesses a valid recreational fishing licence issued under regulation 15.

(4) A recreational fishing competition permit shall be in the form set out in the Eleventh Schedule.

(5) Any person who stages a fishing competition without a recreational fishing permit shall be guilty of an offence and liable in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

(6) Without prejudice to any sentence passed under subregulation (5), a person may in addition to such sentence be banned from undertaking any commercial fishing, recreational fishing or staging or participating in a recreational fishing competition for five years.

17. Catching fish without permission of landowner or occupier

(1) No person shall enter upon any land for the purpose of catching any fish without the written consent of the owner or occupier or by the duly appointed representative of such owner or occupier; and any person who contravenes the provisions of this subregulation shall be guilty of an offence and liable to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, or to both.

(2) Any person seen or found on any land in possession of any fishing equipment shall be deemed to be in contravention of the provisions of this regulation until he or she proves to the contrary.

(3) Any authorised officer or police officer or any owner or occupier of land who finds any person in circumstances under subregulation (2) may require such person to satisfy him or her that he or she is not on the land in contravention of the provisions of this regulation and if such person is unable to give satisfactory proof, may demand from that person his or her full name and address and may forthwith direct that person to leave the land.

(4) Any person who fails to give his or her name and address, or gives a false or incomplete name and address or fails to forthwith leave the land after being directed to do so in accordance with subregulation (3) shall be guilty of an offence and liable to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, or to both.

18. Power to search

(1) The owner or occupier of any land or any person authorised thereto by him or her may, without warrant, search any boat, premises, hut, tent, camping place, vehicle or receptacle on such land or any road traversing such land if the owner, occupier or authorised person has reasonable cause to suspect that there is contained therein any fish, or any thing or article by means of which or in respect of which, any provision of these Regulations has been contravened and may seize such fish, article or thing found by him or her.

(2) Any person who obstructs or hinders any person carrying out a search in terms of subregulation (1) shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction, to a fine not exceeding P500, or to

imprisonment for a term not exceeding 12 months, or to both.

19. Fishing at night

(1) No person shall catch fish at night except by the use of gill nets which have been set and left stationary in the water before or after the night.

(2) No person shall interfere or tamper with gill nets at night.

(3) Any person who contravenes the provisions of this regulation shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction, to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

20. Prohibited fishing practices

(1) No person shall catch fish by-

- (a) setting nets across a lagoon entrance, or river channel;
- (b) drive fishing;
- (c) seining; or
- (d) using a mosquito net.

(2) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable, in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

(3) Notwithstanding the provisions of subregulation (1), the Director may authorise the use of seining and drive fishing by permits granted in terms of regulation 12.

21. Prohibition of moving fish from one water body to another

(1) No person shall, without a permit from the Director, move fish from one water body to another water body.

(2) A person moving fish under these regulations shall, at all times he or she is moving such fish, be in physical possession of the permit.

(3) A permit to move fish shall be in the form set out in the Twelfth Schedule and shall be obtained upon payment of P10.

(4) Any person who contravenes the provisions of subregulation (1) shall be guilty of an offence and liable in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction to a fine not exceeding P500, or to imprisonment for a term not exceeding 12 months, or to both.

22. General Penalty

Any person who contravenes any provision of these Regulations for which no specific penalty is provided shall be guilty of an offence and liable in the case of a first conviction, to a fine not exceeding P200, or to imprisonment for a term not exceeding three months, and, in the case of a second or subsequent conviction, to a fine not exceeding P500, or to imprisonment for a term not exceeding six months, or to both.

**FIRST SCHEDULE
APPLICATION FOR COMMERCIAL FISHING**

(Citizens only)

(reg 5 (1))

In terms of section 3 (d) of the Fish Protection Act an application to fish commercially is hereby

made by.....

of address:

Telephone:..... Cellphone:

Omang No.:.....

Age:..... Sex: M/F

Which fishing area are you applying for?.....

Have you been issued with a fishing licence previously? Yes/No:.....
If yes, where and when was the licence issued?

Date issued:..... Place issued:.....

Did you submit monthly catch records? Yes/No:

Signature of Applicant:..... Date:.....

**SECOND SCHEDULE
COMMERCIAL FISHING LICENCE**

(Citizens only)

(reg 6 (1))

In terms of section 3 (d) of the Fish Protection Act permission is hereby granted to:

.....

of address:.....

Telephone:..... Cellphone:.....

Omang No.:

Age.....Sex: M/F.....

to fish commercially at (Fishing Area or Dam)

during the (year) open fishing season starting on 1st March,

..... to 31st December,

The holder hereby undertakes to submit monthly catch records to the nearest Fisheries office.

Name of Authorised Officer (Print):

Signature of Authorised Officer: Date:

Place issued:

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Authorised Officer's signature.

**THIRD SCHEDULE
APPLICATION TO IMPORT GILL NETS**

(reg 9 (2))

In terms of section 3 (f) of the Fish Protection Act an application to import gill nets is hereby made by:.....

of address:.....

Telephone:..... Cellphone:.....

Passport/Omang No.:

Age:..... Sex: M/F..... Occupation:.....

From where will the gill nets be imported?.....

Provide nets specifications:

 Mesh sizes (mm stretched)

 Netting material and colour.....

 Length of net (not mounted)

 Depth of net (in mesh sizes or meters).....

 Size of twine.....

Have you been issued with a licence previously? Yes/No.....

If yes: State **Date**..... and **Place** where issued.....

Signature of Applicant..... Date.....

**FOURTH SCHEDULE
GILL NET IMPORT PERMIT**

(reg 9 (3))

In terms of section 3 (f) of the Fish Protection Act a permit is hereby granted to:

.....

of address:.....

Telephone:..... Cellphone:.....

Passport/Omang No.:

Age:..... Sex: M/F..... Occupation:

to import gill nets of the following specifications:

Mesh size (mm)	Netting material and colour	Length of net (not mounted)	Depth of net (mesh size or m)	Twine size (ply)	No.

Name of Authorised Officer (Print):

Signature of Authorised Officer:Date:

Place issued:

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Authorised Officer's signature.

**FIFTH SCHEDULE
APPLICATION FOR GILL NET DEALER'S PERMIT**

(Citizens only)

(reg 10 (2))

In terms of section 3 (f) of the Fish Protection Act an application to sell gill nets is hereby made by:

.....

of address:.....

Telephone:..... Cellphone:.....

Passport/Omang No.:.....

Age:..... Sex: M/F..... Occupation:.....

Name the country(ies) from where the gill nets were imported

State specifications of the nets you would like to sell:

Mesh sizes in mm (stretched).....

Netting material and colour.....

Length of net.....

Depth of net (in mesh sizes or metres).....

Size of twine (ply)

Have you been issued with a licence previously? Yes/No.....

If yes: State **Date**..... and **Place** where issued.....

Signature of Applicant..... Date.....

**SIXTH SCHEDULE
GILL NET DEALER'S PERMIT**

(reg 10 (3))

In terms of section 3 (f) of the Fish Protection Act a permit is hereby granted to:

.....

of address:.....

Telephone:..... Cellphone:.....

Passport/Omang No.:

Age:..... Sex: M/F..... Occupation:

to sell gill nets of the following specifications:

Mesh size (mm)	Netting material and colour	Length of net (not mounted)	Depth of net (mesh size or m)	Twine size (ply)

Name of Authorised Officer (Print):

Signature of Authorised Officer:Date:

Place issued:

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Authorised Officer's signature.

**SEVENTH SCHEDULE
DIRECTORS PERMIT**

(reg 12 (4))

In terms of section 5 of the Fish Protection Act permission is hereby granted to:

Name:.....

of address:

Telephone:.....Cellphone:.....

Passport/Omang No.: Occupation:

Age:..... Sex: M/F.....

to catch fish for the purpose of:

- (a) Education, scientific research, provide specimens for museums, zoological gardens and similar institutions,
- (b) Breeding, farming or domestication of any fish (Tick the appropriate).

Area or location where the fish will be caught

Fish species Total number to be caught.....

Endorsements (NB! fish caught for purpose of (b) above are subject to payment of a fee as stipulated under regulation 12 (3).....

This permit is valid fromto.....

Director/Authorised Officer (Print).....Title

Signature of Director/Authorised Officer..... Date.....

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Director/Authorising Officer's signature.

EIGHTH SCHEDULE RECREATIONAL FISHING LICENCE

(reg 15 (2))

In terms of section 3 (d) the Fish Protection Act permission is hereby granted to:

Name:.....

of address:

Telephone:..... Cellphone:.....

Passport/Omang No.: Occupation:

Age:..... Sex: M/F.....

to undertake recreational fishing from the following water bodies:.....

The permit is valid from to

The holder hereby agrees to release juvenile or undersize fish when caught.

Name of Authorised Officer (Print)

Signature of Authorised Officer Date

Place issued:

This permit is valid from to

Director/Authorised Officer (Print).....Title.....

Signature of Director/Authorised Officer..... Date.....

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Director/Authorising Officer's signature.

NINTH SCHEDULE RECREATIONAL FISHING LICENCE FEES

(reg 15 (2))

(a) Citizens	P30 monthly licence P360 annual licence
(b) Non-Citizens	P300 monthly licence P600 annual licence
(c) Fishing camps/lodges	P3,000 annual permit

TENTH SCHEDULE APPLICATION FOR A FISHING COMPETITION PERMIT

(reg 16 (1))

In terms of section 3 (d) of the Fish Protection Act an application for a permit to organise a fishing competition is hereby made by:

of address:

Telephone: Cellphone:

Passport/Omang No.: Occupation:

Age: Sex: M/F

In which fishing area will the competition take place?.....

The competition will run from to

The prizes consist of: First prize Value (P)

Second prize Value (P)

Third prize Value (P)

Have you been issued with a permit to run a fishing competition previously? Yes/No.....
 If yes, when was the permit issued and where did the competition take place?

Date issued Competition took place at

Did you provide a satisfactory record of the fish caught during the competition? Please explain

The holder hereby agrees to meet the following conditions:
 (a) not to use any outboard motor exceeding 60hp capacity;
 (b) not to engage a total number of boats exceeding 50 in total;
 (c) to provide catch statistics to the Director within seven days after conducting the competition.

Signature of Applicant Date

**ELEVENTH SCHEDULE
 FISHING COMPETITION PERMIT**

(reg 16 (4))

In terms of section 3 (d) of the Fish Protection Act a permit is hereby issued to:

.....

of address:

Telephone: Cellphone:

Passport/Omang No.: Occupation:

Age: Sex: M/F

to organise and run a fishing competition to take place at

The competition will start on and finish on

The holder hereby agrees to submit a record of all fish caught and kept to the nearest DWNP office within two days of ending the competition.

Name of Authorised Officer (Print):

Signature of Authorised Officer: Date:

Place issued:

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Director/Authorising Officer's signature.

**TWELFTH SCHEDULE
PERMIT TO MOVE LIVE FISH**

(reg 21 (3))

In terms of section 3 (h) of the Fish Protection Act permission is hereby granted to:

.....

of address:.....

Telephone:..... Cellphone:.....

Passport/Omang No.:.....

Age:..... Sex: M/F..... Occupation:.....

to move the following live fish:

Common Name	Scientific Name	Number
.....
.....
.....
.....
.....

from (source water body) to (destination water body).....

during the period (not exceeding five days) from to

The holder hereby agrees to carry this permit all the time when the fish are being transported.

Name of Authorised Officer (Print):

Signature of Authorised Officer:Date:

Place issued:

NB! This Permit is not valid unless there is an official DWNP stamp in red ink on top of the Authorised Officer's signature.