#

RG 4 Vessel Monitoring Requirements

## About this guide

This guide is for all holders and operators of Fishery Access Licences required to have VMS installed on boats used to carry out fishing activities under the licence.

This guide outlines the regulatory approach the VFA will take for breaches of VMS requirements and for granting temporary approvals to fish without an operating VMS unit in special circumstances.

## Document history

This guide was issued on 21 March 2024 and is based on legislation and regulations as at the date of issue.

Previous versions:

* 15 May 2020
* 1 July 2020
* 2 May 2022

## Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Fisheries Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

## Overview

The VFA will work collaboratively with industry to implement VMS in each required fishery.

## Requirement to have an approved VMS unit installed – Fisheries Regulation 77, 470 & 471

All prescribed access licence holders and their operators are required to have a VFA-approved VMS unit installed in any boat used under the licence prior to leaving a port or mooring unless authorised by the VFA.

The unit must be installed on a specified vessel and a test operation will be conducted to ensure it is working properly.

### *Compliance approach where approved VMS unit has not installed*

The VFA will take a strict approach to fishers engaging in any fishing activity authorised by the licence without an approved and activated VMS unit installed on their boat.

Unless special circumstances apply, a fisher detected commercially fishing without an approved VMS unit installed in the boat will receive an infringement notice for a first offence.

## Requirement to specify and maintain method of communication – Fisheries Regulation 472

It is a requirement that fishers have onboard the vessel a mobile phone that the VFA can call at any time that it needs to communicate with the operator when they are on the boat and acting under the licence.

After the VMS unit is installed, and at least 5 business days before the boat is used for fishing after installation, the licence holder must inform the VFA in writing of that telephone number. The notification can be via email to commercial.licensing@vfa.vic.gov.au or by letter to:

Licensing & Quota Services
Victorian Fisheries Authority
PO Box 4509
Melbourne VIC 3001

The notification must include, the name of the responsible person (operator), registration number of the boat that the VMS system is installed on, and the telephone number of the approved communication method.

The operator must make all reasonable efforts to respond in a timely manner to communications from the VFA.

When the operator is engaged in underwater dive fishing, they must check their phone for messages before entering the water and each time they reboard the boat.

## Engaging in a commercial fishing trip without VMS unit operating – Regulation 473(d) and (f)

The licence holder and the nominated operator must ensure that a VMS unit installed in a boat is fully operational and reporting positional information to the National VMS system, before undertaking a commercial fishing trip, and at all times during the trip.

Where a fisher can demonstrate that they had an honest and reasonable belief that the unit was reporting, no enforcement action will be taken for the breach.

The VFA considers the following steps reasonable for ascertaining that the unit is reporting:

* + check that the visual indicator light indicates that the VMS unit is working correctly;
	+ and/or log into a smartphone app to ascertain if the unit is reporting before commencing the trip (succorfish devices only).

## *Compliance approach where installed VMS unit not operating*

Where a fisher is detected with a VMS unit installed and registered, but not reporting to the VFA, the VFA will take the following action, unless special circumstances apply:

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| First breach | Advice and education material provided |
| Second breach | Official warning |
| Third breach | Infringement notice  |

## Penalties associated with vessel monitoring systems

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| --- | --- | --- |
| Interfering or tampering with, or damaging, the correct operation of a vessel monitoring system installed on a boat used for carrying out an activity authorised under a fishery licence contravenes Fisheries Regulation 477(1)  | An offence against regulation 477(1) of the Fisheries Regulations | $962  |
| Licence holder fails to install a vessel monitoring system of the type approved by the VFA and which is installed and operated in the prescribed manner approved by the VFA contravenes Fisheries Regulation 77(2)  | An offence against section 53(1) of the *Fisheries Act 1995* constituted by a failure to comply with regulation 77(2) of the Fisheries Regulations  | $577  |
| Person acting on behalf of licence holder, fail to install a vessel monitoring system of the type approved by the VFA and which is installed and operated in the prescribed manner approved by the VFA contravenes Fisheries Regulation 77(2)  | An offence against section 53(4) of the Fisheries Act constituted by a failure to comply with regulation 77(2) of the Fisheries Regulations  | $577  |

## What if my VMS is not working

You should contact the Commercial Duty Officer immediately if you suspect your VMS device is not working. Fishers whose VMS units are not working while in port should contact the Duty Officer before leaving on a fishing trip.

The Duty Officer will authorise the operator to undertake a fishing trip if the installed VMS unit is not fully operational if satisfied that there are special circumstances to justify the authorisation. The Duty Officer will consider special circumstances apply if satisfied that:

* a replacement unit is not available and or the replacement unit is not able to be registered with VFA Licensing Commercial Licencing during business hours;
* the unit was installed correctly;
* the fisher has taken reasonable steps to have the device repaired or replaced at the next opportunity; and
* the operator is low risk (i.e. has a history of compliance).

## VMS stops working while at sea

If the fisher becomes aware that the VMS unit has ceased working during a fishing trip, they must immediately contact the Commercial Duty Officer.

The Duty Officer will grant approval to continue fishing if satisfied there are special circumstances justifying the granting the approval. In this case the duty officer will consider special circumstances apply if satisfied that:

* the unit was operating prior to the boat leaving port; and
* the operator is low risk (has a history of compliance).

### *Conditions of authorisation to operate without VMS fully operational*

Where the Commercial Duty Officer grants an authorisation to engage in fishing activities with a VMS unit that is not fully operational, they will impose conditions on the authorisation, including that:

* the operator only undertakes fishing activities within areas specified (reef codes or area codes);
* the fisher manually reports their position by SMS on specified timeframes; and
* the fisher provides a pre-landing notification by SMS.

An authorisation will only be granted for the current fishing trip. Additional authorisations must be sought for any subsequent fishing trips.

Note: The duty officer only has power to grant an authorisation in circumstances where a VMS unit is installed on the boat but is not operational. For approval to engage in commercial fishing activity without a unit installed, the licence holder must apply to the VFA for a written exemption. This is done through the Commercial Licensing Unit.

## Cases of multiple offences or deliberate non-compliance

Where the VFA detects other offences in addition to VMS breaches, or believes the breach is deliberate, it may take enforcement action outside of the approach outlined above.

## Internal review of infringement notices

As in any case where an infringement notice is issued by a fisheries officer, the fisher may seek an internal review of the infringement in accordance with the *Infringements Act 2006*. Further information on fisheries infringement notices and available grounds for seeking an internal review are set out at <https://vfa.vic.gov.au/enforcement/fisheries-infringement-notices>.

### VFA contact details

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| If you have any questions about the VMS system or administration including registering a VMS unit on a vessel | Commercial Licensing Unit (business hours) | 03 8392 6860Commercial.licensing@vfa.vic.gov.au |
| If your VMS is not working and you are seeking approval to manually report during your fishing trip  | Commercial Duty Officer (24 hours) | 0418 519 215 |