

**ACT 625 FISHERIES ACT 2002**

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*Area of Inshore Economic Zone*

**ACT 625**

**FISHERIES ACT, 20021**

**AN ACT to consolidate with amendments the law on fisheries, to provide for the regulation and management of fisheries, for the development of the fishing industry and the sustainable exploitation of fishery resources and for related matters.**

PART ONE

*The Establishment of the Commission*

**1.Establishment of the Fisheries Commission**

- (1) There is established by this Act a Fisheries Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission may, for the performance of its functions, acquire and hold movable or immovable property and dispose of the property and enter into a contract or any other transaction.
- (4) Where there is a hindrance to the acquisition of a property under subsection (3), the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125).

1. The Act was assented to on 16th January, 2002 and notified in the *Gazette* on 17th May, 2002.

**2. Object and functions of the Commission**

(1) The object of the Commission is to regulate and manage the utilisation of the fishery resources of the Republic and co-ordinate the policies in relation to them.

(2) Without prejudice to the general effect of subsection (1), the Commission shall, in relation to fisheries

- (a) prepare and keep under continual review plans for the management and development of fisheries in waters under the jurisdiction of the Republic;
- (b) establish priorities for the utilisation of fishery resources which will provide the greatest benefits to the country;
- (c) ensure the proper conservation of the fishery resources through the prevention of over fishing;
- (d) strive to minimise, as far as practicable, fishery gear conflict among users; (e) ensure the monitoring, control and surveillance of the fishery waters;
- (f) promote sub regional, regional and international co-operation in fisheries management;
- (g) promote co-operation among local fishermen and advance development of artisanal fishing;
- (h) . carry out research and survey work for the assessment of stock of the fisheries resources;
- (i) correlate fisheries with other water uses and environmental protection particularly with respect to the fish resources and food chain in the rivers, lagoons, lakes and the continental shelf along the coast of the country;
- (j) standardise fish quality, weight and the basis for fish pricing in consultation with any other agency that has responsibility for fish quality standards;
- (k) make recommendations to the Minister on granting of licences for fishing;
- (l) in consultation with the Minister, control and co-ordinate the importation of fresh and frozen fish;
- (m) in collaboration with the competent authority, establish requirement for manning fishing vessels and boats, safety for crew and vessels and for fish ing gears in use to avoid damage by other vessels;
- (n) hear and determine complaints from persons aggrieved in respect of matters arising from or related to fishing activities and the fishing industry generally;
- (o) in collaboration with District Assemblies with fishing communities, ensure the enforcement of the fishery laws including by-laws made by the District Assembly; and
- (p) perform any other function conferred on it under this Act or any other enactment.

### 3. Ministerial responsibility and directions of the Minister

(1) The Minister responsible for fisheries has ministerial responsibility for the Commission.

(2) The Minister may give general directions in writing on matters of policy and the Commission shall comply with the directions.

### 4. Governing body

(1) The governing body of the Commission is a Council consisting of

(a) the chairperson,

(b) one representative each of

(i) the Ministry responsible for Transport,

(ii) the Ministry responsible for Defence,

(Hi) the Ministry responsible for the Environment,

(Iv) the Ghana Marine Fishing Officers Association,

(v) the Water Research Institute,

(vi) the Ghana Irrigation Development Authority,

(c) two representatives of the National Fisheries Association of Ghana, one representing artisanal fishermen and the other representing industrial fishing vessel owners,

(d) one other person with requisite knowledge of the fishing industry or natural resource renewal management, and

(e) the Director of the Commission.

(2) The representatives specified in subsection (1) shall be nominated by the bodies concerned and are persons not below the rank of a Deputy Director in the Civil Service and in the case of a functional group in the private sector, not below the rank of a vice chairman or its equivalent.

### 5. Appointment of members of the Council

(1) The chairperson and the other members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

(2) A member of the Council, other than the Director, shall hold office for four years and is eligible for re-appointment.

(3) A member nominated by a body as its representative on the Council shall cease to be a member on the recommendation of that body, or if that member ceases to be a member of the body concerned or where the President, for stated reasons, revokes the appointment of the member by letter addressed to that member.

(4) A member of the Council may at any time resign from the Council in writing addressed to the President through the Minister.

(5) The chairperson of the Council shall notify the President through the Minister of vacancies that occur in the membership of the Council.

(6) When the chairperson or any other member of the Council is prevented by illness or any other cause from performing the functions of office, the President may, acting in consultation with the appropriate body, appoint another person to perform the functions of the member until the member is able to resume the performance of those functions or the term of the member expires.

## **6. Meetings of the Council**

(1) The Council shall meet at least once in every two months for the dispatch of business at the times and places determined by the members.

(2) The chairperson shall summon a special meeting of the Council within fourteen days of the receipt of a written request signed by not less than five members of the Council.

(3) The quorum at a meeting of the Council shall be not less than seven members.

(4) A member who is absent without reasonable excuse from three consecutive meetings of the Council ceases to be a member.

(5) The chairperson shall preside at the meetings of the Council and in the absence of the chairperson a member of the Council elected by the members present from among their number shall preside.

(6) The validity of the proceedings of the Council shall not be affected by a vacancy in its membership or by a defect in the appointment or qualification of a member.

(7) Questions before the Council shall be decided by a majority of the members present and voting.

(8) The chairperson or the person presiding at a meeting of the Council shall have a casting vote.

(9) Except as otherwise provided in this section, the Council shall regulate the procedure at its meetings.

## **7. Power to co-opt**

The Council may co-opt a person as an adviser at any of its meetings but a co-opted person is not entitled to vote at a meeting.

## **8. Disclosure of interest**

(1) A member of the Council or a committee of the Council who has a personal interest, directly or indirectly, in a matter being considered or dealt with by the Council committee shall disclose verbally or in writing the nature of the interest at a meeting of the Council or committee and shall not take part in the deliberation or decision of the Council or committee with respect to that matter.

(2) A member who fails to disclose an interest under subsection (1) ceases to be a member of the Council or committee.

(3) A removal under subsection (2) shall be without prejudice to any other action that may be taken against the member if by the non-disclosure the member has gained a benefit, directly or indirectly.



**9. Committees of the Council**

(1) The Council may appoint the committees it considers necessary for the effective performance of its functions.

(2) A committee appointed under subsection (1) may consist of members of the Council or members and non-members.

**10. Fisheries Settlement Committee**

(1) Without limiting the scope of section 9, the Council shall appoint from among its members a Fisheries Settlement Committee composed of not less than three nor more than five members to hear and settle complaints from persons aggrieved in respect of matters arising from or related to the fishing industry.

(2) Subsection (1) is without prejudice to a right of action to the Court.

(3) The Fisheries Settlement Committee may co-opt a specialist to assist it in the settlement of an issue before it.

(4) The Fisheries Settlement Committee shall regulate its own procedures and shall in its deliberations act with fairness and in accordance with natural justice.

**11. Fishery licence evaluation committees**

(1) The Council may, for the purpose of evaluating a category of applications for fishery licences, appoint a fishery licence evaluation committee.

(2) A committee appointed under subsection (1) shall be composed of technical officers of the Commission as determined by the Council.

(3) The functions of a committee appointed under subsection (1) are to evaluate applications for fishery licences referred to it and to make its recommendations on the applications to the Council within fourteen days as specified in section 70 (2).

**12. Allowances for members of the Council**

The chairperson, other members of the Council and members of committees of the Council shall be paid the allowances determined by the Minister in consultation with the Minister responsible for Finance.

**13. Relationship of Commission with other authorities**

In the performance of its functions under this Act, the Commission shall co-operate fully with all government departments and agencies and any other public authorities.

*Administration*

**14. Secretariat of the Commission**

There shall be a secretariat of the Commission consisting of public officers as determined by the Council.

**15. Divisions of the Commission**

(1) The Council may establish the divisions in the secretariat of the Commission that it considers necessary for the effective achievement of the object, and the effective performance of the functions of the Commission.

(2) Without limiting the scope of subsection (1), and subject to the power of the Council to re-organise the divisions as it considers appropriate, the following are hereby established as Divisions of the Commission:

- (a) Marine Fisheries Division,
- (b) Inland Fisheries Division,
- (c) Fisheries Scientific Survey Division,
- (d) Monitoring, Control and Surveillance Division, and
- (e) Finance and Administration Division.

(3) The functions and numerical staff strength of each Division of the Commission shall be determined by the Council and the head of each Division shall answer to the Director in the performance of the functions of the Division.

(4) The Divisions of the Commission may be located in the places determined by the Council.

(5) The Council may delegate its functions under this section to the Director.

**16. Other units in the Commission**

There shall be established by the Council the following as units of the Commission which shall constitute a part of the secretariat of the Director:

- (a) Planning and Evaluation Unit,
- (b) Legal Unit,
- (c) Internal Audit Unit,
- (d) Information Management Unit, and
- (e) any other units determined by the Council.

**17. Director**

(1) In accordance with article 195 of the Constitution, the President shall appoint for the Commission a Director of Fisheries who is the head of the secretariat of the Commission.

(2) The Director shall hold office for the period and on the other terms and conditions specified in the letter of appointment of the Director.

**18. Functions of the Director**

(1) The Director is responsible, subject to policy directives of the Council, for

- (a) ensuring the efficient and effective performance of the functions of the Commission and the directives of the Council,

- (b) the day-to-day management and administration of the Units of the Commission,
- (c) the supervision of the Divisions of the Commission, and
- (d) any matters determined by the Council.

**19. Duties of the Divisions of the Commission**

- (1) For the purpose of performing the functions of the Divisions of the Commission, the Director shall draw up for consideration and approval by the Council a service charter which shall set out the duties and responsibilities of each Division under the Commission.
- (2) The service charter may be revised by the Council.
- (3) Each Division shall have as its head a Deputy Director.

**20. Delegation by Director**

The Director may delegate a function to a Deputy Director or any other officer of the Commission subject to the condition that the Director may impose, but the Director is not relieved from ultimate responsibility for the performance of the delegated function.

**21. Secretary to the Commission**

- (1) The Commission shall have a secretary who shall arrange the business of the Council and shall keep minutes of the meetings.
- (2) The secretary shall perform any other functions directed by the Council or the Director.
- (3) The secretary is answerable to the Director in the performance of the functions of office.

**22. Appointment of other employees of the Commission**

- (1) Employees of the Commission shall be appointed by the President in accordance with article 195 of the Constitution.
- (2) Other public officers may be seconded or transferred to the Commission.

**23. Delegation of power to appoint public officers**

The President may in accordance with article 195 (2) of the Constitution delegate the power of appointment of public officers under sections 14 to 22.

*Financial Provisions*

**24. Money for the Commission**

The funds to meet the expenditure of the Commission consist of

- (a) moneys approved by Parliament for the Commission, and
- (b) the proportion of the moneys in the Fishery Development Fund as Parliament may direct as payable towards the expenditure of the Commission.

**25. Payment into the Consolidated Fund**

Except as otherwise provided under section 24 and section 37, the moneys received by the Commission in the course of performance of its functions shall be paid by the Commission into the Consolidated Fund.

**26. Bank accounts**

The Commission may, with the approval of the Minister, the Controller and the Accountant-General, open and operate a bank account as determined by the Council.

**27. Borrowing powers**

Subject to article 181 of the Constitution and any other enactment, the Commission may obtain loans and any other credit facilities on the guarantee of the Government from a bank and any other financial institution approved by the Minister.

**28. Execution of contracts**

(1) The use of the seal of the Commission shall be authenticated by the signatures of

- (a) the Director or in the absence of the Director another officer of the Commission authorised by the Council to authenticate the use of the seal, and
- (b) a member of the Council as determined by the Council.

(2) The Commission may, under its common seal, empower a person to act as its attorney to execute deeds on its behalf in a place outside the Republic, and a deed signed by the attorney on behalf of the Commission under the attorney's seal is binding on the Commission and has the same effect as if it were issued under the common seal of the Commission.

(3) An instrument or a contract which if executed or entered into by a person, other than a body corporate, would not require to be under seal, may be executed or entered into on behalf of the Commission by the Director or a member of the Council if that person has previously been authorised by a decision of the Council to execute or enter into that particular agreement or contract.

(4) This section is subject to section 12 of the Contracts Act, 1960 (Act 25).

**29. Annual budget and corporate plans of the Commission**

(1) The Council shall, not later than three months before the end of each financial year, prepare and submit to the Minister for the approval of Parliament, an annual budget in respect of the following financial year comprising estimates of expected recurrent, maintenance, development and capital expenditure of the Commission in that financial year.

(2) The budget shall be in the form directed by the Minister responsible for Finance.

(3) The Director shall prepare budget estimates for each financial year and shall present them to the Council for its approval not later than five months before the end of the preceding financial year.

(4) The Director shall also prepare corporate plans for the periods directed by Council,

### **30. Performance contract**

The Director shall enter into a performance contract with the Ministry for the period and on conditions specified in the contract.

### **31. Accounts and audit**

(1) The Commission shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The books of account of the Commission shall be audited within three months after the end of each financial year by the Auditor-General.

### **32. Internal auditor**

(1) The head of the Internal Audit Unit shall be the internal auditor of the Commission.

(2) In the performance of functions of office the internal auditor is answerable to the Director.

(3) As part of the internal auditor's functions under this Act, the internal auditor shall, at intervals of three months, prepare a report on the internal audit work carried out by the internal auditor during the period of three months immediately preceding the preparation of the report, and submit the report to the Director.

(4) The internal auditor shall make in each report the observations that are necessary to the conduct of the financial affairs of the Commission during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to the Minister and the Council.

(6) This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658) and where there is a conflict the provisions of that Act shall prevail.

### **33. Financial year**

The financial year of the Commission shall be the same as the financial year of the Government.

### **34. Annual report and other reports**

(1) The Council shall submit to the Minister as soon as practicable and in any event not more than eight months after the end of each financial year a report dealing generally with the activities and operations of the Commission during the year to which the report relates.

(2) The report shall include

(a) the audited accounts of the Commission and the Auditor-General's report on the accounts,

2. Inserted as a result of the enactment of the Internal Audit Agency Act, 2003 (Act 658).

- (b) a statement of the Commission's budget and operational plans for the next financial year, and
- (c) any other information that the Council may consider necessary.

(3) The Minister shall, within two months after the receipt of the annual report, submit the report to Parliament with the statements that the Minister considers necessary.

### **35. Access to information**

For the purposes of the attainment of its object and the performance of its functions under this Act, the Commission shall have access to information and records of a department of State which are reasonably necessary for those purposes.

## **PART TWO**

### *Fisheries Development Fund*

### **36. Establishment of the Fisheries Development Fund**

There is established by this Act a Fisheries Development Fund.

### **37. Sources of money for the Fund**

The moneys for the Fund consist of

- (a) fees for licences, permits and any other authorisation for fishing issued under this Act,
- (b) damages and costs granted by the Courts to the Republic in respect of an action under this Act or the Regulations,
- (c) sums of money received for compounded offences,
- (d) proceeds of the sale of forfeited items collected, imposed or received by or under this Act,
- (e) the amount of money that Parliament may approve for payment into the Fund, and
- (j) loans and grants.

### **38. Objective of the Fund**

The moneys of the Fund shall be applied

- (a) towards the promotion and development of fisheries in the country,
- (b) to meet the liabilities of the Commission in respect of the monitoring, control and surveillance of the fishery waters,
- (c) to provide assistance to small scale fishery co-operative enterprises,
- (d) to promote research and studies of the fishing industry, and
- (e) toward any other purposes determined by the Council in consultation with the Minister.

**39. Management of the Fund**

(1) The Fund shall be managed by the Council which shall for this purpose include the Controller and Accountant-General or the representative of the Controller and Accountant-General.

(2) The moneys for the Fund shall be paid into a bank account opened for the purpose by the Commission with the approval of the Controller and Accountant-General and the Minister.

(3) The provisions of this Act on accounts, audit, financial year and the submission of annual reports under sections 31, 33 and 34, apply to the Fund.

**40. Policies in relation to the Fund**

The Council shall, for the purpose of the management of the Fund (a) formulate policies to generate money for the Fund, and (b) determine, in consultation with the Minister, allocations to be made from the Fund.

**41. Payments from the Fund**

The moneys issued out of the Fund shall be by cheque signed by any two of the following:

- (a) the chairperson of the Council,
- (b) the Director, or
- (c) one other member of the Council.

**PART THREE**

*Fisheries Management and Development*

*Fishery Plans*

**42. Fishery plans**

(1) A fishery plan prepared by the Commission for the management and development of fisheries

- (a) shall be based on the best scientific information available,
- (b) shall ensure the optimum utilisation of the fishery resources but avoid over exploitation, and
- (c) shall be consistent with good management principles.

(2) A fishery plan may relate to a specific water area or specified species of fish.

(3) The Commission is to be responsible in collaboration with any State agencies as the Council considers appropriate, for the implementation of each fishery plan.

**43. Content of fishery plan**

A fishery plan

- (a) shall identify the fishery resource and its characteristics, including its economic and social value and interrelationship with other species in the ecosystem;
- (b) shall assess the present state of exploitation of each resource and taking into account relevant biological, social, and economic factors, determine the potential average annual yields from the resource;
- (c) shall specify the measures to be taken to promote the development of the local fishing enterprises, both industrial and artisanal;
- (d) shall determine the amount of the fishery resource to be made available to licensed foreign fishing vessels;
- (e) shall specify the conservation measures to be enforced to protect the resources from over-exploitation;
- (j) shall indicate the research necessary to enhance management of the fishery resource;
- (g) shall specify the information and any other data required to be given or reported for the effective management and development of fisheries; and
- (h) shall take into account relevant artisanal fishing methods or principles.

**44. Consultations and approval of fishery plan**

(1) The Council shall, during the preparation of each fishery plan, carry out the consultations it considers appropriate with organisations, authorities and persons affected by the fishery plan.

(2) In order to assess and recommend appropriate management, development and conservation measures for a fishery plan, the Director may reasonably require a person to furnish relevant data and information, including fishing time and effort, landing, processing, sales and related transactions.

(3) A fishery plan or review of the plan shall be submitted to the Minister who shall submit it to the Cabinet for approval, and the plan shall come into force at a time specified in the approval.

(4) The Minister shall publish in the *Gazette* and the other mass media the effective date of implementation of an approved fishery plan.

**45. Consultation on international fisheries management**

(1) The Minister may, and shall on the advice of the Council, consult with foreign governments and in particular with governments of states sharing the same or interrelated fish stocks, with a view

- (a) to ensuring the closest practicable harmonisation or co-operation of their respective fisheries management and development plans and regulations;



- (b) to ensuring the harmonisation of systems for the collection of statistics, the carrying out of surveys and procedures for assessing the state of the fisheries resource in the region;
- (c) to establishing on a bilateral, regional or sub-regional level reciprocal fishing rights with other states in the region, where the reciprocal fishing rights are necessary to sustain the growth of industrial and artisanal fishing;
- (d) to providing for the formulation of sub-regional or regional fisheries management and development plans including monitoring, control and surveillance, for the allocation of fishing effort and catch for the formation or promotion of joint fishing, among states sharing the same stocks, and for taking sub-regional or regional joint conservation measures;
- (e) to providing for the establishment and operation of joint sub-regional or regional fisheries management plans.

(2) Consultations under subsection (1) may be undertaken directly with the governments or persons concerned, or through existing appropriate regional or sub-regional organisations or international agencies.

#### *Local Industrial and Semi-industrial Fishing Vessels*

#### **46. Prohibition of use of local industrial or semi-industrial fishing vessel without licence**

(1) A person shall not use a local industrial or semi-industrial fishing vessel for fishing in the fishery waters except under a licence issued under this Act for the vessel.

(2) A person who acts contrary to subsection (1) commits an offence and is liable on summary conviction to a fine of not less than

- (a) US\$1,000 in the case of a local industrial fishing vessel, or
- (b) fifty penalty units in the case of a local semi-industrial fishing vessel,

and the vessel or implement used in the commission of the offence shall on conviction be forfeited to the Republic.

#### **47. Qualification as local industrial or semi-industrial fishing vessel**

(1) A local industrial or semi-industrial fishing vessel is a fishing vessel

- (a) owned or controlled by a citizen, the Government, or owned or controlled by a company or partnership registered by law in the Republic which has its principal place of business in the Republic and the share of which is beneficially owned wholly by the Government, a citizen, a public corporation established by law in the Republic or a combination of any of them, and
- (b) in the case of a tuna fishing vessel, where at least fifty percent of the shares in the vessel is beneficially owned or controlled by the persons specified in paragraph (a), and
- (c) registered in the Republic.

(2) A bare boat chartered by any of the persons specified in paragraph (a) of subsection (1) qualifies as a local industrial or semi-industrial fishing vessel.

(3) A fishing licence shall not be issued for a vessel unless

(a) in respect of a local industrial or semi-industrial fishing vessel required to be registered under the Ghana Shipping Act, 2003 (Act 645) the vessel has been so registered; and

(b) the Council is satisfied that the vessel is seaworthy and fit for the purpose of fishing and conforms with the requirements that are applicable to the vessel under an enactment in force including requirement on navigation and safety equipment.

#### **48. Application for fishing licence for local industrial and semi-industrial fishing vessels**

(1) The provisions in sections 69 to 80 on application for a fishing licence, conditions of licence, transfer of licences and licence fees among others shall apply to local industrial and semi-industrial fishing vessels unless otherwise provided in this Act.

(2) The Council may delegate in writing to a regional agriculture authority of the Ministry, the Commission's role in the process of licensing local industrial and semi industrial fishing vessels or any other functions under this Act in respect of local industrial and semi-industrial fishing vessels.

#### **49. Markings and identity of local industrial and semi-industrial fishing vessels**

(1) The Council shall, before recommending the licensing of a local industrial or semi-industrial fishing vessel, ensure that the vessel bears identity markings consisting of letters and numbers allocated to the vessel by the competent authority.

(2) A person shall not operate a local industrial or semi-industrial vessel which does not bear the identity markings.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not less than

(a) \$1,000 and not more than \$10,000 in the case of a local industrial fishing vessel, or

(b) fifty penalty units and not more than five hundred penalty units in the case of a local semi-industrial fishing vessel,

and in addition the catch and the fishing gear used in the commission of the offence may be forfeited to the Republic.

#### **50. Employment of citizens**

(1) The owner of a local industrial or semi-industrial fishing vessel licensed under this Act shall employ a master, officers and crew of which not less than seventy-five percent are citizens.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$1,000 and not exceeding \$2 million.

*Artisanal Fishing, Aquaculture and Recreational Fishing*

**51. Development of artisanal fishing**

(1) The Commission shall, in the performance of its functions under this Act, take the action that it considers necessary to protect and promote artisanal and semi-industrial fishing including

- (a) the provision of extension and training services;
- (b) the registration of artisanal fishing vessels and any class of related fishing gear;
- (c) the exemption for the period that the Council may recommend to the Minister of the fisheries activities that the Council may determine from a requirement concerning licensing and the payment of fees under this Act;
- (d) the promotion of the establishment and development of fishing, processing and marketing co-operative societies;
- (e) the promotion of the development of artisanal fishing landing facilities;
- (f) the establishment of reserved areas for fishing activities of artisanal and semi-industrial fishing vessels;
- (g) the giving of priority to artisanal and semi-industrial fishing in the allocation of fishing licences or quotas; and
- (h) the promotion of joint venture arrangements, technology transfer agreements and transfer of technology and experience.

(2) The Commission shall not in an action taken under subsection (1) establish concessionary areas within the inshore exclusive zone for activities not permitted under this Act.

**52. Licence for canoes and qualification for licence**

(1) A person shall not use a canoe for fishing in the fishery waters unless a licence has been issued for the canoe for the purpose of fishing.

(2) A fishing licence shall not be issued for a canoe unless the canoe

(a) is owned by a citizen, a company or a partnership registered in the Republic under the relevant law in which the shares are beneficially held by a citizen,

(b) has been registered with the Commission through the District Assembly of the area where it is to be used, and

(c) bears the markings of identity allocated to it by the Commission.

(3) A person who acts contrary to a provision in subsection (1) commits an offence and is liable on summary conviction to a fine of not less than twenty-five penalty units and not exceeding five hundred penalty units and the canoe or gear used in the commission of the offence shall on conviction be forfeited to the Republic.

**53. Application and fishing licence for artisanal fishing vessel**

(1) A person seeking to use a canoe for fishing shall apply to the Commission in the form determined by the Council.

(2) The Council may direct that an application shall be routed through the District Assembly of the locality where the applicant intends to operate the canoe.

(3) The application shall be submitted with the information determined by the Council.

(4) An artisanal fishing licence shall be granted without delay.

**54. Artisanal fishing licence and renewal**

(1) A licence for artisanal fishing shall

(a) specify the period of validity of the licence,

(b) indicate the activity for which the licence is issued, and

(c) state the markings and identity of the artisanal vessel.

(2) An artisanal fishing licence may on application to the Commission be renewed.

**55. Registration, markings and identity of artisanal fishing vessel**

(1) An artisanal fishing vessel shall be registered by the District Assembly of the area where the vessel is to be operated.

(2) A District Assembly registering an artisanal vessel shall allocate to the vessel the letters and numbers of identification determined by the District Assembly.

(3) A person shall not fish with an artisanal vessel which does not bear the identification assigned to the vessel.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of not less than twenty-five penalty units and not exceeding two hundred and fifty penalty units and in addition, the catch, fishing gear or any other apparatus used in the commission of the offence may on conviction be forfeited to the Republic.

**56. Fee for artisanal fishing licence**

(1) There shall be paid for the issue and renewal of artisanal fishing licence the fee determined by the Council.

(2) Licence fee for artisanal fishing licence shall be paid in cedis.

**57. Transfer of artisanal fishing licence**

(1) A licence issued for a canoe, may be transferred to another person,

(a) if the canoe to which the licence is transferred is of equal dimensions and characteristics and is to be operated in the same locality as the canoe previously licensed, and

- (b) in the case of change of ownership, if the new owner and the previous owner both notify the Director of Fisheries of the transfer of ownership in writing.

(2) The Director of Fisheries or a person acting on the Director's authority shall endorse the licence to effect the transfer of the licence where the conditions specified in subsection (1) are satisfied.

(3) A person who contravenes a provision of subsection (1) commits an offence and is liable on summary conviction to a fine of not less than twenty-five penalty units and not exceeding five hundred penalty units.

### **58. Cancellation and suspension of artisanal fishing licence**

Where a canoe licensed under section 52 is used in the commission of an act prohibited under this Act or in breach of a condition of the licence, the Council may, on the conviction of the licensee, recommend to the Minister to

- (a) cancel or vary the licence,
- (b) suspend the licence for a specified period,
- (c) disqualify the licensee from being granted a fishing licence, or
- (d) permit continued holding of the licence subject to further conditions recommended by the Council.

### **59: Further regulations of artisanal fishing**

The Minister may, on the recommendation of the Council, make further provisions that the Minister considers necessary for regulating artisanal fishing.

### **60. Licence for aquaculture and recreational fishing**

(1) An application for a licence for an aquaculture project or recreational fishing shall be made to the Commission and shall be accompanied with an environmental impact assessment.

(2) The application shall be in the form determined by the Council and shall be accompanied with the fee determined by the Council.

(3) The provisions on evaluation of applications in section 70 shall apply to the processing of an application for aquaculture with the modifications that are necessary.

(4) A licence for aquaculture shall specify the aquatic organism to be farmed.

(5) A licensed aquaculture operator shall carry out the operations in conformity with the prescribed standards relating to aquatic environmental protection, quality of produce and hygienic methods.

(6) A licence for aquaculture is not transferable except with the authorisation of the Minister given on the recommendation of the Council.

(7) The Minister may, on the advice of the Council, by legislative instrument make further provisions the Minister considers necessary for the operation of aquaculture.

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(8) Recreational fishing shall be carried on in accordance with the requirements prescribed by the Regulations.

*Foreign Fishing Vessels*

**61. Fishing by foreign fishing vessels**

(1) A foreign fishing vessel shall not fish or attempt to fish within the fishery waters of the Republic except

- (a) under a licence issued under this Act, or
- (b) as may be otherwise authorised under an agreement between the Government and the government of the country in which the fishing vessel is registered or otherwise belongs.

(2) A foreign fishing vessel shall not enter the fishery waters of the Republic unless

- (a) authorised to do so by the terms of a licence or permit issued to it under this Act or under an applicable access agreement in force, or
- (b) it is under circumstances recognised by international law.

(3) Subsection (2) does not apply to a foreign fishing vessel entering the fishery waters for the sole purpose of innocent passage, or by reason of *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress or for any other purpose recognised by international law.

(4) A foreign fishing vessel entering the fishery waters for any of the reasons specified in subsection (3) shall

- (a) observe the Regulations including Regulations on storage of fishing gear,
- (b) not fish, attempt to fish, load, unload or transship a fish, and
- (c) return to outside the fishery waters as soon as the purpose for which it entered has been fulfilled or the reason has ceased to be valid.

(5) The provisions on licensing in sections 69 to 80 apply to foreign fishing vessels.

(6) Where a foreign fishing vessel is used in contravention of subsection (1), (2) or (4), the owner, master and charterer of the vessel individually commits an offence and is liable on summary conviction to a fine of not less than \$250,000 and not more than \$2 million and in addition, the catch, fishing gear or any other apparatus or a combination of them used in the commission of the offence shall be forfeited to the Republic.

**62. Activities of crew and other persons on board a foreign fishing vessel**

(1) A person, who is on board a foreign fishing vessel or who is a member of the crew of or attached to or employed on a foreign fishing vessel, shall not in the Republic or in the fishery waters engage in fishing or related activities except in accordance with this Act and the Regulations.

(2) The owner, operator and each member of the crew of a foreign fishing vessel in the fishery waters shall comply with the applicable access arrangement and applicable laws of Ghana, including this Act.

(3) Fishing gear on board a foreign fishing vessel in a place in the fishing waters where it is not permitted to fish shall be stowed in the prescribed manner or in a manner that it is not readily available for use for fishing.

(4) A foreign fishing vessel in a place in the fishery waters shall be operated in a way that the activities of local and artisanal fishermen and fishing vessels are not disrupted or in any other way adversely affected.

(5) Where a foreign fishing vessel is used in contravention of subsection (1) or (2), the owner, master and charterer of that vessel individually commits an offence, and is liable on summary conviction to a fine of not less than \$250,000 and not exceeding \$2 million and in addition, the catch, fishing gear or any other apparatus or a combination of them used in the commission of the offence may be forfeited and the fishing licence may be suspended or cancelled.

### **63. Licence for foreign fishing vessels**

(1) A licence shall not be issued under this Act which authorises a foreign fishing vessel to engage in fishing in the fishery waters except under an access arrangement made under this Act.

(2) Subsection (1) does not apply to a licence issued in the absence of an applicable access arrangement in respect of

(a) marine scientific research, or

(~) trial fishing operations.

(3) Despite the provisions of subsections (1) and (2), the Minister on the recommendation of the Council may issue a licence to a foreign fishing vessel authorising that vessel to be used in the fishery waters for the fishing or related activities specified in the licence, or for any other purposes in accordance with this Act.

(4) The Minister shall not issue a licence to a foreign fishing vessel unless it is satisfied that the vessel

(a) is registered in accordance with the law of its flag State, and

(b) a certificate of seaworthiness is issued for the vessel by the competent authority or by the International Association of Classification Societies.

### **64. Access arrangement**

(1) The Minister may, on the advice of the Council, enter into an international access arrangement on behalf of the Government with a foreign government, foreign association or any other legally constituted foreign body which has power and authority to enforce compliance with the terms of the access arrangement.

(2) An access arrangement shall provide for the allowable allocation of fish which shall not exceed a level consistent with the conservation and management of fishery resources, provide for the protection of local fishermen and shall also be consistent with the fishery plan.

- (3) An access arrangement shall include the provisions required to implement minimum terms and conditions of fisheries access in accordance with this Act, including
- (a) establishing the responsibility of the foreign party to take measures to ensure compliance by its vessels with the terms and conditions of the access arrangement and with the applicable laws, including those relating to fishing and related activities in the fishery waters,
  - (b) the issuance of licences and payment of fees for fishing related activities or any other activities or operations described in this Act,
  - (c) provisions that the owner, charterer, operator, master or any other person responsible for the operation of a licensed vessel shall not tranship fish at sea except only at designated times and places and in accordance with this Act, and
  - (d) any other matters as may be required for effective implementation of the access arrangement in accordance with this Act.

#### **65. Authorisations for marine scientific research and trial fishing**

(1) Where there is no applicable access arrangement, the Minister on the advice of the Council may authorise marine scientific research or trial fishing operations in the fishery waters on completion of procedures required under this Act.

(2) An authorisation under subsection (1) shall have attached to it the conditions determined by the Minister.

(3) An authorisation granted under this section shall be in writing and be in the form determined by the Minister.

(4) A person authorised in accordance with this section shall comply with the applicable laws of Ghana and the conditions of the authorisation.

(5) The Minister may refuse to issue, suspend or cancel the authorisation in accordance with this Act if there is a failure to comply with the requirements of this Act or the conditions of the authorisation.

(6) A person who undertakes marine scientific research or trial fishing operations without authorisation commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$10,000 and not more than \$1 million in the case of a foreign fishing vessel or a local industrial or semi-industrial fishing vessel, or
- (b) one hundred penalty units and not more than five hundred penalty units in any other case.

#### **66. Chartered foreign fishing vessel**

(1) A citizen or a qualified company who or that has entered into a charter agreement for the use of a foreign fishing vessel shall submit a copy of the charter agreement to the Commission for designation as an approved charter agreement.

(2) The conditions for the approval of a charter agreement shall be prescribed by the Regulations.



(3) A foreign fishing vessel fishing under an approved charter agreement is subject to the requirements of this Act in respect of foreign fishing vessels, including licensing and compliance requirements as well as penalties.

#### **67. Appointment of agents**

The Minister may require that, prior to the issue of a fishing licence to a foreign fishing vessel in which there is no Ghanaian ownership or shareholding, the applicant appoints an agent within the Republic, who is a citizen or a non-citizen who has resided continuously within the Republic for a period of at least five years immediately prior to the proposed appointment, with no record of conviction, and that person shall be authorised to receive and respond to legal process issued in the Republic with respect to the activities of the vessel, its owner, operator, master and crew members.

#### **68. Posting of bonds**

(1) The Minister may require that, prior to the issue of a fishing licence to a foreign fishing vessel, the applicant or its authorised agent posts a performance bond which may be applied for the payment of a fine, penalty or any other determination for an offence under this Act committed by or in respect of that vessel or for a liability in relation to the vessel arising under this Act.

(2) The Minister may further require that the posting of a performance bond during the period of validity of the licence shall be a condition for the licence.

#### *Fishing Licences for Industrial and Semi-industrial Vessels*

#### **69. Application for a fishing licence**

(1) Subject to an authorisation given under an access agreement made under this Act in relation to foreign fishing vessels, and except as otherwise provided under this Act, an application for a fishing licence in respect of local industrial or semi-industrial fishing vessel or a foreign fishing vessel shall be made to the Commission.

(2) The application shall be in the prescribed form and shall be submitted with, as determined by the Commission

(a) the relevant documents, and

(b) the application fee.

#### **70. Recommendations to the Minister**

(1) The Director shall on an application being submitted to the Commission refer the application, where applicable, to a fishery licence evaluation committee established under section 11.

(2) Where an application is referred to a fishery licence evaluation committee, the committee shall evaluate the application and may request the applicant to provide further particulars the committee considers necessary for the purpose of evaluating the application and shall, unless delay occurs because of the request for further particulars, submit its evaluation to the Commission within fourteen days of the reference by the Director.

(3) The Commission shall, within fourteen days of receipt of an evaluation of an application, submit its recommendations to the Minister for the granting or otherwise, of the licence the subject of the application.

(4) The Minister shall on the basis of the recommendations of the Commission issue the licence.

#### **71. Licence fees**

(1) The fee for a fishing licence shall be determined by the Council in consultation with the Minister.

(2) Licence fees for foreign fishing vessels shall be paid in American dollars.

#### **72. Other conditions of fishing licence**

Regulations may prescribe further conditions for the granting of a fishing licence.

#### **73. Renewal of fishing licence**

A fishing licence issued under section 70 (4) may on an application to the Commission be renewed subject to the conditions determined by the Commission.

#### **74. Period of validity of licences**

(1) Subject to this section, a fishing licence issued or renewed under this Act is valid, unless earlier cancelled or suspended in accordance with this Act or the Regulations, for a period not exceeding one year, or a lesser period specified in the licence, and shall not in the case of a charter or access agreement, extend beyond the period of validity of the applicable charter agreement or access arrangement.

(2) Fishing licences shall be issued or renewed annually or quarterly or within the period recommended by the Commission, and shall expire,

(a) in respect of an annual licence, on 31st December in the year in which it is issued, or

(b) in respect of a quarterly licence, on 31st March, 30th June, 30th September or 31st December in the year in which it is issued.

(3) A licence issued or renewed is only valid for the species of fish and the type of fishing gear or method of fishing, or any other activity in accordance with this Act specified in the licence.

(4) Where a vessel, licensed as a local industrial fishing vessel, becomes a foreign fishing vessel the licence shall automatically terminate.

#### **75. Transfer of fishing licences**

(1) A fishing licence issued under this Act shall not be transferred unless

(a) the Director has been notified in writing of the transfer prior to the transfer by both the transferor and the transferee,

(b) the Council approves the transfer on the conditions determined by it,

- (c) the written permission of the Minister for the transfer is endorsed on the licence, and
- (d) in the case of a local industrial or semi-industrial fishing vessel the transferee qualifies to hold a local fishing licence as provided under section 47.

(2) Without limiting the scope of subsection (1), the Minister may in order to give effect to a scheme for the restriction of effort in respect of a fish under a fishery management and development plan approved under this Act, in writing, do any or all of the following:

- (a) direct that a licence to engage in that fishery activity may not be transferable from one vessel to another vessel, or that the surrender of licences may not give rise to certain rights to new licences, and
- (b) set any other conditions under which permission may be given in respect of transfer of licences.

(3) A person, being the previous owner or new owner of a licensed fishing vessel licensed under this Act who does not notify the Director in writing as provided under subsection (1) (a) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$5,000 and not more than \$10,000 in the case of a vessel of less than 50 gross registered tonnes,
- (b) \$25,000 and not more than \$100,000 in the case of a vessel of 50 GRT but less than 100 gross registered tonnes,
- (c) \$150,000 and not more than \$500,000 in the case of a vessel of 100 GRT but less than 250 gross registered tonnes, or
- (d) \$1 million in the case of a fishing vessel of 250 gross registered tonnes, or above.

#### **76. Refusal, suspension, modification and cancellation of licences**

(1) The Council shall not recommend the issue or renewal of a fishing licence for a local industrial or semi-industrial fishing vessel or a foreign fishing vessel unless it is satisfied that

- (a) the application is in accordance with the requirements of this Act and the Regulations,
- (b) the required fee has been paid in accordance with this Act and the applicable access arrangement, and
- (c) there has not been a failure to satisfy a judgment or any other determination for a contravention of this Act or an access arrangement where applicable by the operator of the vessel in respect of which the application for the licence is made.

(2) The Council may refuse to recommend the issue or renewal of a fishing licence, or may recommend the suspension or cancellation of a fishing licence or authorisation where it is satisfied that

- (a) information required to be given or reported under this Act and the applicable access arrangement is false, incomplete, incorrect or misleading;

- (b) it is necessary to do so in order to give effect to a licensing programme specified in an approved fisheries plan;
- (c) the owner or charterer of the vessel is the subject of proceedings under the bankruptcy laws of a jurisdiction or on reasonable grounds appears unable to meet the financial obligations which could arise from fishing activities, and has not provided financial assurances required by the Commission;
- (d) the vessel in respect of which the licence was issued has been used in contravention of this Act or in breach of a regulation or direction made or given under this Act or a condition of the licence or, in the case of a foreign fishing vessel, in breach of an applicable access arrangement;
- (e) the fishing vessel does not meet the safety standards required under an enactment for the purpose for the time being in force;
- (j) the fishing vessel does not bear the prescribed markings;
- (g) the gear to be used on the fishing vessel does not meet the requirements of the prescribed mesh sizes;
- (h) the fishing vessel is manned by a crew that is not qualified under an existing enactment for the purpose;
- (i) the vessel is not seaworthy;
- (j) the fishing vessel is not covered by a valid policy of insurance which covers injury to third parties;
- (k) the owner, operator or master of the fishing vessel has failed to submit the catch returns or landing reports or to maintain logbooks as required under this Act or the Regulations;
- (f) the owner, operator or master of the fishing vessel engages in an activity prejudicial to the fishing industry;
- (m) the applicant or operator of the vessel for which a licence is sought has a documented history of non-compliance with fisheries laws or regulations and is believed unlikely to comply with those laws, or regulations if a licence is issued; or
- (n) the vessel for which the licence is sought is not equipped with a working transponder for satellite monitoring where applicable.

(3) The Minister may, on the recommendations of the Council, impose additional conditions or modify the terms of a fishing licence on the grounds as specified by the Council after giving notice as provided in subsection (4) to the licensee.

(4) Where a licence is suspended or cancelled, notification of the cancellation or suspension shall be given to the person to whom the licence was issued within a period of at least seven days before the effective date of the suspension or cancellation.

(5) A notification given under subsection (4) shall be in writing, but in the case of a foreign fishing vessel, the notification may be in writing or by telex, radio, facsimile or any other form the Director considers appropriate.

(6) Where a fishing licence is suspended or cancelled on the grounds specified in subsection (2) (b), a proportion of the fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, shall be reimbursed to the licensee at the request of the licensee.

#### **77. Observation of other laws**

A fishing licence or any other authorisation issued under this Act shall not relieve a licensee, or the master or crew of a fishing vessel of an obligation or a requirement imposed by law concerning navigation, health, customs, immigration or any other matter.

#### **78. Establishment of Fisheries Appeals Board and appeals**

- (1) There is established by this Act a Fisheries Appeals Board consisting of
  - (a) one representative of the Attorney-General's Department not below the rank of a Chief State Attorney who shall be the chairperson,
  - (b) one person appointed by the Minister, and
  - (c) one representative of the fishing industry who is not an interested party in the subject matter of the appeal.
- (2) A person affected or aggrieved by a decision of the Minister to
  - (a) refuse to issue or renew a licence under this Act, or
  - (b) modify, cancel or suspend a licence,

may, within fourteen days of receipt of notification of that decision appeal first to the Fisheries Appeals Board for redress.

(3) The Fisheries Appeals Board may confirm, reverse or vary the decision appealed against.

(4) A person dissatisfied with the decision of the Appeals Board may seek the redress that person considers appropriate from the Court of Appeal.

(5) The Fisheries Appeals Board shall regulate its proceedings and shall in its deliberations be guided by fairness and the rules of natural justice.

#### **79. Register of licences**

The Commission shall maintain a register of licences issued under this Act, containing information relating to

- (a) the vessel, person or project licensed,
- (b) the nature of the activity licensed,
- (c) the period of validity of each licence, and
- (d) the additional information relating to the licences determined by the Council.

#### **80. Other authorisation and permits**

The provisions on fishing licence under sections 69 to 79 shall, unless otherwise provided in this Act or the Regulations, apply to any other authorisation or permit required under this Act with the modifications and adaptations that are necessary.

*Fishing Zones, Gear, Methods and Manning of Motor Fishing Vessels***81. Establishment of zones and prohibition of fishing inside zones**

(1) The water area specified in the Schedule is hereby declared as the inshore exclusive zone.

(2) The zone shall be used exclusively by small semi-industrial vessels, canoes and recreational fishing vessels.

(3) A person shall not use a large semi-industrial vessel or industrial fishing vessel for fishing inside the zone.

(4) A person shall not use a canoe support vessel to fish in the zone.

(5) A towing gear shall not be used in a thirty-metre zone or the depth prescribed by the Regulations.

(6) Despite a provision of this section, the Council may, at the periods that it considers appropriate, permit large semi-industrial vessels to enter the zone for the capture of cephalopods.

(7) The Director may, on written guidelines by the Council, exempt in writing a research or any other fishing vessel from subsection (4) or (5).

(8) A person who contravenes subsection (3), (4) or (5) commits an offence and is liable on summary conviction to a fine of not less than

(a) \$100,000 and not more than \$500,000 in respect of a foreign fishing vessel,

(b) \$10,000 and not more than \$100,000 in respect of a local industrial or semi-industrial fishing vessel, or

(c) one hundred penalty units and not more than five hundred penalty units in any other case.

**82. Destruction of fishing gear of artisanal fishermen in inshore exclusive zone**

(1) A person aboard a motor fishing vessel shall not destroy or damage an appropriately marked fishing gear of an artisanal fisherman inside the zone.

(2) The Regulations may provide for the relevant and appropriate marking of artisanal vessels and gear. ~

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$5,000 and not more than \$100,000 and in addition, the master, owner and charterer, of the vessel in respect of which the offence was committed are jointly and severally responsible for providing to the aggrieved artisanal fishermen

(a) full compensation for the destroyed gear either in kind or in cash, and

(b) adequate compensation for lost fishing time.

**83. Manning of motor fishing vessels**

- (1) A motor fishing vessel of, or exceeding, twenty-four metres shall not proceed to sea or call at a port in the Republic unless it has on board,
- (a) a skipper who is the holder of a First Class Fishing Certificate of Competency (Unlimited), issued by the competent authority,
  - (b) a mate or second hand who is the holder of a Second Hand Certificate of Competency (Unlimited), issued by the competent authority, except that a skipper who is the holder of a First Class Fishing Certificate of Competency (limited to vessels between twelve metres and twenty-four metres), operating in unlimited waters may serve in this capacity,
  - (c) an engineer who is the holder of a First Class Engineer's Certificate of Competency (Fishing), issued by a competent authority,
  - (d) an engineer who is the holder of a Second Class Engineer's Certificate of Competency (Fishing), issued by a competent authority,
  - (e) a person who is a holder of an Able-bodied Seaman's Certificate of Competency issued by the competent authority,
  - (j) in the case of a vessel equipped with marine radio telephone, a radio operator with the requisite certificate of competency issued by the competent authority, and
  - (g) in the case of a vessel equipped with marine telegraphy, a radio operator with the requisite Certificate of Competency issued by the competent authority.
- (2) A motor vessel of twelve metres length or more but less than twenty-four metres shall not proceed to sea from a port in the Republic unless it is provided with
- (a) a skipper who is the holder of a First Class Fishing Certificate of Competency (limited to vessels between twelve metres and twenty-four metres), issued by a competent authority,
  - (b) a mate or second hand who is the holder of a Second Hand Certificate of Competency (limited to vessels between twelve metres and twenty-four metres), issued by the competent authority except that a skipper who is the holder of a First Class Fishing Certificate of Competency (limited to vessels of length less than twelve metres), operating in limited or unlimited waters may serve in that capacity,
  - (c) a person who is a holder of an Able-bodied Seaman's Certificate of Competency issued by the competent authority, and
  - (d) a marine motor mechanic who is the holder of a Certificate of Competency issued by the competent authority.
- (3) A motor fishing vessel of less than twelve metres shall not proceed to sea from a port in the Republic unless it is provided with
- (a) a skipper who is the holder of a First Class Fishing Certificate of Competency (limited to vessels of length less than twelve metres), issued by the competent authority,

- (b) a person who is the holder of an Able-bodied Seaman's Certificate of Competency, issued by the competent authority, and
  - (c) a marine motor mechanic who is the holder of a Certificate of Competency issued by the competent authority.
- (4) Except in case of emergency at sea a person shall not
- (a) claim to be a skipper, second hand, radio officer, radio operator, person or engineer of a semi-industrial or industrial vessel without first ascertaining that that person has been duly certified in accordance with this section;
  - (b) employ any other person as a skipper, second hand, radio officer, radio operator, person or engineer of a semi-industrial or industrial vessel without first ascertaining that that other person has been duly certificated in accordance with this section.
- (5) For the purposes of this section, a person is duly certificated as a skipper, second hand, radio officer, radio operator, person or engineer of a semi-industrial or industrial vessel if that person holds for the time being a certificate of competency granted by the competent authority.
- (6) Where the skipper or engineer of a semi-industrial or industrial vessel is absent, the competent authority may on application by the owner of the vessel and on being satisfied that the absence of the skipper or engineer is unavoidable, authorise the holder of a lower grade fishing vessel certificate to act for a specified period, not exceeding four months, as the skipper or engineer of the vessel during the period that the skipper or engineer is absent, and the holder of the lower grade certificate of competency so authorised to act shall, for the purposes of subsection (5) be regarded as the duly certified skipper or engineer.
- (7) A competent authority designated in writing by the Council shall keep a record of every certificate of competency issued and of the suspension, alteration or cancellation or any other matter affecting that certificate.
- (8) The owner, operator or master of a vessel used in contravention of subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine of not less than \$10,000 and not more than \$500,000 in respect of a local industrial or semi industrial fishing vessel or a foreign fishing vessel.
- (9) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment.

#### *Fishing Activities*

#### **84. Closed seasons**

- (1) The Commission may by notice in the *Gazette* declare closed seasons, including their duration, for fishing in specified areas of the coastal waters or the reverie system.
- (2) A declaration made under subsection (1) shall be given reasonable publicity and, where possible, shall be given in advance of the closed season.



(3) A closed season declared by an international body of which Ghana is a member shall be regarded as a closed season declared under this Act

(4) A person who engages in fishing during a closed season declared in accordance with this section commits an offence and is liable on summary conviction to a fine of not less than

(a) \$500,000 and not more than \$2 million in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel, or

(b) one hundred penalty units and not more than five hundred penalty units in any other case, and in addition, the catch, fishing gear or vessel or any other apparatus or any combination of them used in the commission of the offence may be forfeited to the Republic.

#### **85. Net for fishing**

The Minister, acting in accordance with the advice of the Council, shall by regulations prescribe the types and sizes of gear or devices that may be used for fishing including prohibited nets and the relevant fishing activities.

#### **86. Submerged stationary fishing gear**

(1) Any submerged stationary fishing gear or surface drifting gear shall bear conspicuous surface marks using brightly colored buoys, flags or floating poles and night lighted markers all of which must be visible in clear weather at a distance of at least one nautical mile; but in the case of nets, the markers shall be placed at intervals of twenty-five metres along the full length of the net.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of

(a) not more than two hundred and fifty penalty units in respect of an artisanal fishing activity, or

(b) not less than \$1,000 and not more than \$10,000 in respect of any other fishing vessel.

#### **87. Driftnet fishing activities**

(1) A fishing vessel whether registered in the Republic or outside the Republic shall not be used for or assist in any driftnet fishing activities in the fishery waters.

(2) A person shall not engage or assist in a driftnet fishing activity.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than

(a) twenty-five penalty units and not more than five hundred penalty units in respect of an artisanal fishing activity, or

(b) \$250,000 and not more than \$2 million in respect of any other fishing vessel,

and in addition, the catch, fishing gear or any other apparatus or any combination of them used in the commission of the offence may be forfeited to the Republic.

**88. Prohibited fishing methods**

(1) A person shall not

(a) permit to be used, use or attempt to use an explosive, a poison or any other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught, or

(b) carry on board or possess or control without lawful authority at a place within a two kilometre radius from a shore or river, an explosive, a poison or any other noxious substance in circumstances indicating an intention of using that substance for any of the purposes referred to in paragraph (a).

(2) An explosive, a poison or any other noxious substance found on board a fishing vessel shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in subsection (1) (a).

(3) A person who lands, sells, receives or possesses fish taken by a means which contravenes subsection (1) (a) and who knows or has reasonable cause to believe that the fish has been so taken, commits an offence and is liable on summary conviction to a fine of not less than

(a) \$250,000 and not more than \$2 million in respect of a local industrial or

- semi-industrial fishing vessel or a foreign fishing vessel, or

(b) twenty-five penalty units and not more than five hundred penalty units in any other case, and in addition, the catch, fishing gear or any other apparatus or any combination of them used in the commission of the offence shall be forfeited to the Republic.

(4) In proceedings for an offence under this section, a certificate as to the cause and manner of death or injury of a fish, signed by an authorised person or observer is, until the contrary is proved, sufficient evidence as to the matters stated in the certificate.

(5) In proceedings for an offence under this section, the defendant shall be given not less than fourteen days' notice in writing of the prosecution's intention to produce a certificate under subsection (4).

*Conservation Measures***89. Protection of gravid and juvenile lobsters, other crustacean and other juvenile fish**

(1) A person shall not during fishing knowingly take any

(a) gravid lobsters,

(b) crustacean, or

(c) juvenile fish.

(2) Where a fish mentioned in subsection (1) is caught accidentally or as a by-catch it shall immediately be returned to the sea, river or lake.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of

(a) not less than \$50,000 and not more than \$1 million in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel, or

(b) not more than two hundred and fifty penalty units in any other case,

and in addition, the catch, fishing gear or any other apparatus or any combination of them used in the commission of the offence may be forfeited to the Republic.

#### **90. Fishing for marine mammals**

(1) Subject to subsection (3), a person shall not fish for marine mammals in the fishery waters.

(2) A marine mammal caught accidentally shall be released immediately and returned to the waters from which it was taken with the least possible injury.

(3) The Director with the approval of the Council may give a written authorisation to fish for marine mammals in a limited manner.

(4) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than

(a) \$50,000 and not more than \$1 million in respect of a local industrial or semi-industrial vessel or a foreign fishing vessel, or

(b) five hundred penalty units in any other case.

#### **91. Marine reserves**

(1) The Minister may on the advice of the Commission and, after consultation with the Minister responsible for the Environment, owners of the adjoining land and the relevant District Assembly, declare an area of the fishery waters and the seabed underlying the waters to be a marine reserve.

(2) A person who, except with the written permission of the Minister, within a marine reserve

(a) engages in fishing,

(b) dredges or takes sand or gravel, or

(c) otherwise disturbs the natural habitat,

commits an offence and is liable on summary conviction to a fine of not less than \$50,000 and not more than \$2 million in respect of a local industrial or semi industrial fishing vessel or a foreign fishing vessel and not more than five hundred penalty units in any other case

**92. Pollution of fishery waters**

A person who directly or indirectly introduces a deleterious substance into the fishery waters which adversely affects the habitat or health of the fish or any other living aquatic resource commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$50,000 and not more than \$2 million where a local industrial or semi industrial vessel or a foreign fishing vessel is used in the commission of the offence, or
- (b) fifty penalty units and not more than five hundred penalty units in any other case, and that person may be ordered by the Court to pay an additional amount that the Court may determine in compensation for a loss suffered as a result of the introduction of the deleterious substance and the related clean-up costs.

**93. Fisheries impact assessments**

(1) A person or government department or any other agency planning to conduct an activity other than fishing, which is likely to have a substantial impact on the fishery resources or any other aquatic resources of the Republic, shall inform the Commission of the plans prior to the commencement of the planned activity with a view to the conservation and protection of the resources.

(2) The Commission may make or require reports and recommendations by those conducting the planned activity regarding the likely impact of the activity on the fishery resources or other aquatic resources of the Republic and possible means of preventing or minimizing adverse impacts, which shall be taken into account by the person, government department or other agency in the planning of the activity and in the development of means of preventing or minimizing any adverse impacts.

(3) The requirement under this section is in addition to any other requirement of the Environmental Protection Agency. .

*Monitoring, Control, Surveillance and Enforcement***94. The monitoring, control, surveillance and enforcement unit**

(1) There is established by this Act a fisheries monitoring, control, surveillance and enforcement unit.

(2) The enforcement unit is responsible for

- (a) monitoring, control and surveillance of the fishing operations within the fishery waters by whatever appropriate means including, the management and running of a satellite base station for using satellite communications for data transmission relating to the activities of foreign fishing vessels licensed to operate within the zone, and
- (b) the enforcement of this Act, the Regulations and any other enactment relating to the regulation of fishing activities.

(3) The enforcement unit shall include personnel from the Ghana Navy, Ghana Air Force and the secretariat of the Commission as determined by the Minister in consultation with the Minister responsible for Defence.

(4) The Minister may request personnel from other departments, agencies of State or any other competent bodies or organisations to assist the enforcement unit in the performance of its functions.

(5) There shall be assigned to the enforcement unit an attorney from the Ministry of Justice.

(6) The Minister shall, in consultation with the Minister responsible for Defence, appoint the head of the enforcement unit.

#### **95. Authorised officers**

(1) The Minister may, in writing, appoint a public officer as an authorised officer for the purposes of this Act who shall perform functions provided by or under this Act.

(2) Without limiting the scope of subsection (1), the following are authorised officers for the purposes of this Act, the Regulations and any other enactment relating to the regulation of fisheries:

- (a) personnel of the enforcement unit,
- (b) personnel of the Ghana Navy,
- (c) the air crew and personnel of the Ghana Air Force deployed for fishery duties,
- (d) officers of the Water Research Institute, and
- (e) fishery officers of the secretariat of the Commission.

#### **96. Police and other powers of authorised officers**

(1) For the purposes of enforcing this Act, an authorised officer shall have the same powers of arrest as a police officer.

(2) Without limiting the scope of subsection (1), an authorised officer may

- (a) stop, board, remain on board and search a vessel in the fishery waters which the officer reasonably believes is a fishing vessel,
- (b) stop, board, remain on board and search a vessel registered in the Republic found outside the fishery waters,
- (c) stop and search a vessel, vehicle or an aircraft the officer reasonably believes may be transporting fish or engaged in any other activities relating to fishing,
- (d) require the master or a crew member or any other person aboard a vessel to inform the officer of the name, call sign and country of registration of the vessel and the name of the master, owner, charterer or any other crew member,
- (e) question the master or a crew member or any other person aboard about the cargo, contents of holds and storage spaces, voyage and activities of the vessel,

make the examination and inquiry that appear necessary to the officer concerning a vessel, vehicle or an aircraft in relation to which any of the powers conferred by this subsection have been or may be exercised and take samples of a fish or fish product found in the vessel, vehicle or aircraft,

- (g) require to be produced and examined and take copies of a licence, logbook, record or any other document required under this Act or concerning the operation of the vessel, vehicle or aircraft,
- (h) make an entry dated and signed by the officer in the logbook of the vessel or aircraft,
- (i) require to be produced and examined a fish, fishing gear or an appliance or explosive, a poison or any other noxious substance,
- (j) examine and test, where relevant, a satellite tracking device or transponder required to be installed in the vessel by this Act or the Regulations,
- (k) give to the master and a crew member of the vessel, vehicle or aircraft, stopped, boarded or searched, the directions that are necessary or reasonably expedient for any purpose specified in this Act or to ensure compliance by the vessel, vehicle or aircraft, or master or a crew member of the conditions of a licence or authorisation,
- (l) examine and endorse a licence or an authorisation, or
- (m) arrest a person who assaults the officer in the performance of a function under this Act.

(3) Where an authorised officer has reasonable grounds to believe that an offence under this Act is being or has been committed, the officer may, without a warrant

- (a) enter, inspect and search the premises, other than premises used exclusively as a dwelling-house, in which the officer has reasonable grounds to believe an offence has been or is being committed or fish taken illegally is being stored;
- (b) stop, enter and search and stay in or on a vehicle or an aircraft which the officer reasonably suspects of transporting fish or fish products;
- (c) within the fishery waters, follow in hot pursuit in accordance with international law and stop, board and search outside the fishery waters a foreign vessel which the officer has reasonable grounds to believe has been used in the commission of the offence and bring the vessel and persons on board within the fishery waters;
- (d) take samples of fish found in a vessel, vehicle or an aircraft inspected or any premises searched under this Act;
- (e) seize
  - (i) a vessel including its fishing gear, equipment, stores and cargo, vehicle, fishing gear, nets or any other fishing appliances or aircraft which the officer has reasonable grounds to believe has been used or is being used in the commission of an offence;

- (ii) fish or fish products which the officer has reasonable grounds to believe have been caught in the commission of an offence, or fish or fish products which is possessed in contravention of this Act;
  - (iii) an electric shock device, explosive, poison or any other noxious substance which the officer has reason to believe has been used or is possessed in contravention of this Act;
  - (iv) fish that does not meet health standards prescribed under this Act or any other enactment;
  - (v) the logs, charts or any other documents required to be maintained by this Act or under the terms of a licence or any other authorisation which the officer has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence under this Act;
  - (vi) any thing which the officer has reasonable grounds to believe might be used as evidence in proceedings under this Act; or
- arrest a person whom the officer has reasonable grounds to believe has committed an offence under this Act.

(4) An authorised officer may, in arresting a person or seizing a fishing vessel which the officer has reasonable grounds to believe has acted in contravention of this Act, use the force that is reasonably necessary in the circumstances to effect the arrest.

(5) A written receipt shall be given for an article or a thing seized under this section and the grounds for the seizure shall be stated in the receipt.

(6) A person arrested without a warrant under this section shall be taken to a police station forthwith and dealt with in accordance with law.

(7) An authorised officer may, with or without a warrant or any other process, execute a warrant or any other process issued by a court.

### **97. Powers of authorised officer beyond limits of fishery waters**

Where, following in hot pursuit in accordance with this Act, a fishing vessel is pursued beyond the limits of the fishery waters, the powers conferred on an authorised officer by this Act shall be exercisable beyond the limits of the fishery waters in accordance with international law.

### **98. Seized vessels to be taken to port**

(1) Where a vessel is seized under this Act,

(a) the master and crew shall take it to a port designated by the authorised officer, being the nearest or most convenient port, and

(b) the master is responsible for the safety of the vessel, the port charges and every person on board the vessel, including the crew and the authorised officer until the vessel arrives at the designated port.

(2) If the master fails or refuses to take the seized vessel to the designated port, the authorised officer or a person called on to assist the master, may do so.

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(3) If a vessel is taken to port under subsection (2), a claim shall not be made against an authorised officer or the Government in respect of the damage, injury, loss or death which occurs while the vessel is being so taken, subject to this Act.

(4) The provisions relating to vessels and masters described in subsections (1) to (3) shall apply with necessary modification to vehicles and aircraft seized in accordance with this Act, and their drivers and pilots respectively.

**99. Removal of parts from seized vessels**

(1) An authorised officer may remove a part from an unlicensed vessel, vehicle or aircraft held in the custody of the Republic for the purpose of immobilizing that vessel, vehicle or aircraft.

(2) A part removed under subsection (1) shall be kept safely and returned to the vessel, vehicle or aircraft on its lawful release from custody.

(3) A person shall not

(a) knowingly possess or arrange to obtain a part removed under subsection (1),

(b) knowingly possess or arrange to obtain or make a replacement or substitute a part for those removed under subsection (1), or

(c) fit or attempt to fit a part or a replacement or substitute a part to a vessel, vehicle or an aircraft held in the custody of the Republic.

(4) A person who contravenes a provision of subsection (3) commits an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than \$1 million or to a term of imprisonment not exceeding two years.

**100. Observers of fishing vessels**

(1) The Minister may, on the recommendations of the Council, appoint in writing public officers to act as observers in respect of a vessel issued with a fishing licence or an authorisation under this Act.

(2) Observers shall perform the functions determined by the Minister including

(a) collection of catch and effort data,

(b) taking reasonable samples of fish for scientific purposes, and

(c) reporting violations of this Act and the Regulations.

**101. Duties of master and crew towards authorised officers and observers**

(1) A person on board a fishing vessel with a valid licence or an authorisation issued under this Act shall permit an authorised officer or an observer to board and remain on the vessel for the purposes of performing the functions of the officer or observer under this Act.

(2) The operator and every member of the crew of the vessel shall allow and assist an authorised officer or an observer to

(a) board the vessel for scientific, compliance, monitoring and other functions, at the time and place directed by the Director;



- (b) have full access to and the use of facilities and equipment on board the vessel which the authorised officer or observer may determine is necessary to perform the functions of the officer or observer, including
    - (i) full access to the bridge, navigation charts, fish on board and areas which may be used to hold, process, weigh or store fish,
    - (ii) full access to the vessel's records, including its logbooks and documentation for the purposes of records inspection and copying,
    - (iii) full access to fishing gear on board, and
    - (iv) reasonable access to navigation equipment and radios;
  - (c) take and remove from the vessel reasonable samples for the purposes of scientific investigation and any other relevant information;
  - (d) take photographs of the fishing operations, including fish, fishing gear and equipment and charts and records, and remove from the vessel photographs or film the officer or observer may have taken or used on board the vessel;
  - (e) send or receive messages by means of the vessel's communications equipment;
  - (j) perform their functions safely; and
  - (g) disembark at the time and place that may be requested.
- (3) The operator of the vessel shall provide an authorised officer or an observer forced by circumstances to stay on board the vessel for a prolonged period of time, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel at the expense of the operator.
- 4) An operator of a vessel with a valid licence or an authorisation issued under this Act shall allow and assist an authorised officer or an observer to have full access to a place within the Republic where fish taken in the fishery waters is unloaded, processed, stored or transshipped, to remove reasonable samples for scientific purposes and to gather information relating to fisheries in the fishery waters.
- (5) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding \$1 million.

## **102. Compliance with directions of authorised officers and observers and penalties**

(1) The master and every crew member of a fishing vessel, the driver of a vehicle and the pilot and crew of an aircraft shall immediately comply with every instruction or direction given by an authorised officer or an observer as appropriate, and facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and the related fishing gear, equipment, records, fish and fish products.

(2) The master and every crew member of a vessel, driver of a vehicle and pilot and crew of an aircraft shall take reasonable measures to ensure the safety of an authorised officer or an observer as appropriate in the performance of the functions of the officer or observer.

(3) A person who contravenes subsection (1) or (2) and a person who

- (a) assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to take reasonable measures to ensure the safety of or otherwise interferes with an authorised officer or an observer in the performance of the duties of the officer or observer,
  - (b) incites or encourages any other person to assault, resist or obstruct an authorised officer or an observer while performing the functions of the officer or observer, or a person lawfully acting under the officer's orders or in the aid of the officer or observer,
  - (c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards an authorised officer or an observer while in the performance of the functions of the officer or observer, or a person lawfully acting under the authorised officer's or observer's orders or in aid of the authorised officer or observer,
  - (d) fails to comply with the lawful requirements of an authorised officer or an observer,
  - (e) furnishes to an authorised officer or an observer particulars which, to that person's knowledge, are false or misleading in a material respect, or
  - (f) impersonates or pretends to be an authorised officer or an observer or pretends to be a person lawfully acting under an authorised officer's or an observer's orders or in aid of the officer or observer,
- commits an offence and is liable on summary conviction to a fine of not less than fifty penalty units nor more than five hundred penalty units in respect of an artisanal fishing vessel and not less than \$1,000 nor more than 12 million in respect of any other fishing vessel.

(4) For the purposes of subsection (3), a person who does not allow an authorised officer or an observer, or a person acting under the officer or observer or in aid of the officer or observer to perform any of the functions conferred by this Act is obstructing that officer, or observer or person.

(5) Where a vessel transports an authorised officer or an observer outside the fishery waters and the officer or observer is forced to disembark outside the territory or jurisdiction of the Republic, the master, owner and agent commits an offence and are jointly and severally liable on summary conviction to a fine of not less than \$20,000, plus the costs of repatriation including board and lodging while out of the Republic and the cost of direct transportation to the Republic.

### **103. Identification of authorised officer and observer**

An authorised officer or an observer, when performing any of the functions conferred by this Act on an authorised officer or an observer, shall on request, produce identification to the authority of the authorised officer or observer under this Act.

### **104. Insurance protection for authorised officers and observers**

The Government shall arrange for full insurance coverage for all authorised officers and observers for the duration of their sea duties.

**105. Indemnity for officers**

Subject to the Constitution, an action shall not be brought against the personnel of the enforcement unit, an authorised officer or an observer in respect of an act done in good faith in the performance of a function under this Act.

*Detention, Sale, Release and Forfeiture of Property*

**106. Release of seized goods**

(1) Subject to the other provisions of this section, where an offence is committed under this Act in relation to a fishing vessel, an aircraft, a vehicle or any other item, the fishing vessel, aircraft, vehicle or items may be arrested or seized and detained pending the conclusion of proceedings arising from the offence.

(2) A Court may, on application, order the release of a fishing vessel together with its fishing gear, equipment, stores and cargo, vehicle, an aircraft or any other items seized under this Act on receipt of the bond or any other form of security determined by the Court.

(3) In determining the value of the bond or any other form of security, the Court shall consider the aggregate amount of the value of the property to be released, an estimated total fine or any other penalty provided for the offences charged or likely to be charged and the costs the prosecution is likely to recover if a conviction were entered, and may set the value at the aggregate amount.

(4) Despite subsection (3), the amount determined by the Court under this section shall not be less than the fair market value of the property to be released or the aggregate minimum fine or penalty for each offence charged, whichever is greater.

(5) Where a vessel, vehicle, an aircraft or any other item seized is released on the lodging of a bond or any other form of security, the Court shall, in the order, state separately the sums of money which are attributable to the property to be released, the total fine or fines and the likely costs.

(6) The release of a bond or any other form of security under this section shall be conditional on

(a) a finding by the Court that the vessel, aircraft, vehicle or the other item has not been used in the commission of an offence under this Act, or

(b) payment in full within thirty days of the judgment of the Court of a fine imposed by the Court and the costs ordered to be paid by the Court.

(7) Subsection (2) does not require a Court to release a vessel, a vehicle, an aircraft or any other item if it might be required as an exhibit in court proceedings or is reasonably required for further investigations of offences under this Act.

**107. Sale of perishable goods seized**

(1) Fish or any other item of a perishable nature seized under this Act or the proceeds of sale of that fish or item shall be held and dealt with in accordance with this Act.

(2) The Director or an agent of the Commission may direct the sale of the fish or the other items referred to in subsection (1) and the proceeds of the sale shall be deposited with a Court pending the outcome of court proceedings under this Act, except that where, after making all reasonable effort, the fish or any other items cannot be sold, or where they are unfit for sale, the Director or the agent may dispose of them in the manner that the Director or agent thinks fit.

(3) The Director or agent shall notify the owner or apparent owner of the perishable goods seized, of the sale or other means of disposal, and the owner or the nominee of the owner may be present at the sale.

#### **108. Holding of seized goods**

Subject to the other provisions of this section and to sections 106 to 114, a vessel, vehicle, an aircraft or any other item seized under this Act or a bond or any other security or net proceeds of any sale in respect of a vessel, vehicle, an aircraft or any other item seized shall be held by the Court pending the outcome of legal proceedings under this Act or until it is decided not to lay a charge, and the penalties imposed under this Act or agreed to be paid have been fully paid.

#### **109. Court's power of forfeiture**

(1) Where a person is convicted of an offence under this Act, the Court in addition to any other penalty,

(a) may order that a fishing vessel together with its fishing gear, equipment, stores and cargo and a vehicle or an aircraft used or involved in the commission of that offence shall be forfeited to the Republic;

(b) shall order, where a person is convicted of an offence relating to an unlicensed activity under this Act, that a fishing vessel together with its fishing gear, equipment, stores and cargo and a vehicle or an aircraft used or involved in the commission of that offence be forfeited to the Republic.

(2) Where a vessel, vehicle, an aircraft or any other item seized under this Act, or a bond, security or the net proceeds of sale in respect of a vessel, vehicle, an aircraft or any other item seized is not forfeited or applied in the discharge of a fine, order or costs of penalty imposed under this Act, it shall be made available for collection by the registered owner or the nominee of the owner or, in the absence of that person, the person who appears to the Court to be entitled to it.

(3) Where a vessel, vehicle, an aircraft or any other item has been released on the lodging of a bond or security, an order for forfeiture shall, unless the Court for special reasons fixes a smaller sum, operate as an order for forfeiture of the bond or security.

#### **110. Application of bond**

A bond, security or the net proceeds of sale held in respect of a vessel, vehicle, an aircraft or any other item shall be applied in the following order:

(a) the discharge of a forfeiture ordered under this Act;

(b) the payment of the fines or penalties for offences under this Act or penalties imposed under this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other item, and the amount remaining shall be returned to the owner or the agent of the owner.

#### **111. Unlawful removal of seized goods**

Where a vessel, vehicle, an aircraft or any other item held or forfeited under this Act is unlawfully removed from the custody of a government agency, the vessel, vehicle, aircraft or the other item is liable to seizure anywhere at any time within the jurisdiction of the Republic.

#### **112. Disposal of forfeited goods**

(1) A vessel, vehicle, an aircraft or any other item ordered to be forfeited under this Act may, at the expiry of the time limited for appeal and if an appeal is not lodged, be disposed of in the manner determined by the Council.

(2) A vessel, vehicle, an aircraft or any other item seized under this Act but not forfeited in legal proceedings may be held by the Commission until the fines, orders for costs and penalties imposed under this Act have been paid and, failing payment within the time allowed, may be sold and the balance of the proceeds returned to the person entitled in accordance with this Act after deduction of the fines, orders for costs, penalties imposed under this Act and costs of sale.

(3) Except where otherwise provided in this Act, the proceeds of sale of forfeited items other than fines shall be deposited in the Fund established under section 36.

#### **113. Liability for loss, damage or deterioration of items in custody**

Subject to this Act, the Commission shall take or arrange for reasonable care to be taken of an item in its custody pursuant to this Act, but is not otherwise liable to a person for a loss, damage to or deterioration in the condition of a vessel, vehicle, an aircraft, a cargo or any other item while in the custody of the Commission under this Act.

#### **114. Removal of property in custody**

A person who removes a vessel, vehicle, an aircraft or any other item held in custody under this Act commits an offence whether or not the person knew that the vessel, vehicle, aircraft or other item was held in custody and is liable on summary conviction in addition to the cost of the item removed, to a fine of not less than two hundred and fifty penalty units and not exceeding one thousand penalty units.

### **PART FOUR** *Jurisdiction and Evidence*

#### **115. Jurisdiction of the Court**

- (1) An act or omission in contravention of a provision of this Act committed
- (a) by a person within the fishery waters,

(b) outside the fishery waters by a citizen or a person ordinarily resident in the Republic, or

(c) by a person on board a local fishing vessel,

shall be dealt with in a court determined by the Chief Justice, but where a foreign fishing vessel is involved, the matter shall be dealt with by the High Court and the judicial proceedings shall be taken as if the act or omission had taken place within the jurisdiction of the Republic.

(2) Where an authorised officer or an observer is performing outside the fishery waters, a function conferred on the officer or observer in accordance with this Act, an act or omission of a person in contravention of a provision of this Act, shall be deemed to have been committed within the fishery waters.

(3) Despite any other law to the contrary, an information or a charge in respect of an offence under this Act may be laid at any time within one year of the commission of the offence.

#### **116. Compounding of offences, administrative penalties**

(1) Subject to subsection (4) the Council may, where it is satisfied that a person has committed an offence under this Act, and that person has in writing admitted to having committed the offence and expressed willingness that the offence be so dealt with, compound the offence by accepting on behalf of the Government from that person a sum of money of not less than the minimum penalty specified for the offence plus the fair market value of the fish 'caught illegally, and the sum when paid shall immediately be paid into the Fund.

(2) In compounding an offence, the Council shall take into account a report which may be prepared by the prosecutor as to the details of the offence for which that person would otherwise be charged and the minimum penalty level for the offence.

(3) In addition to the requirements of subsection (1), the Council shall require that a person who has previously committed an offence under this Act and seeks to have a current offence compounded shall pay not less than the minimum penalty plus ten percent of the minimum penalty for each offence previously committed.

(4) Compounding of an offence under this section shall be with the consent of the prosecutor.

(5) On compounding an offence under this section, the Council may order the release of an article seized under this Act or the proceeds of sale of the article on conditions determined by the Council, but the Council shall not order the release unless the penalties have been paid in full.

(6) The compounding of an offence under this section is valid on the payment of the fine or penalty determined by the Council, and the notification in writing on payment signed by the chairman of the Council and the offender, to the appropriate court.

(7) The compounding of an offence is not effective if the full amount of the penalty is not deposited with the Commission within thirty days of the decision, and the matter shall, in that event, revert to the Court.

(8) A person aggrieved by a decision of the Council may appeal to the High Court against a penalty imposed under this section.

(9) Where the Council compounds an offence under this section, the person concerned is not liable for prosecution for the offence.

(10) The Council may in writing assign the function conferred by this section to the Director.

**117. Certificate evidence**

The Director or a person designated in writing by the Director may give a certificate stating that

- (a) a specified vessel was or was not, on a specified date, a local fishing vessel or a foreign fishing vessel;
- (b) a specified vessel or person was or was not, on a specified date, the holder of a specified licence;
- (c) a particular location or area of water was, on a specified date, within the fishery waters, or within a closed, limited, restricted or in any other way controlled area of the fishery waters, or an area of the fishery waters subject to specified conditions;
- (d) an appended chart shows the boundaries, on a specified date, of the fishery waters, closed or limited areas or any other areas or zones delineated for a specified purpose;
- (e) a particular item or piece of equipment is fishing gear;
- (j) the death of or injury to a fish was caused in a particular manner;
- (g) an appended document is a true copy of an approved charter agreement, an access arrangement or related agreement;
- (h) a call sign, name or number is that of or allotted under a system of naming or numbering of vessels to a particular vessel; or
- (I) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel.

**118. Validity and procedures for certificates**

(1) Unless the contrary is proved, a document purporting to be a certificate issued ..... under section 117 shall be regarded a certificate duly issued under this Act.

(2) Where a certificate issued under section 117 is served on a defendant seven or more days before its production in court in proceedings under this Act, the certificate is, unless the contrary is proved, sufficient evidence of the facts averred in it.

(3) Where a certificate issued under section 117 is served on a defendant fourteen or more days before its production in court and the defendant does not, within seven days of the date of service, serve notice of objection in writing on the prosecutor, then the certificate is, unless the Court finds the defendant is unduly prejudiced by a failure to object, conclusive proof of the facts averred in it.

**120. Designated machines**

(1) The Minister may, by notice in the *Gazette*, designate a machine or a class of machines as a designated machine or machines.

(2) The readings of designated machines shall be admissible as evidence of the facts they aver if

- (a) the readings were made by a competent operator of the machine, and
- (b) the machine was checked for correct working at a reasonable time before and after the readings it is sought to adduce in evidence were made, and the machine appeared to be working correctly.

(3) A designated machine, when checked for correct working and read by a competent operator, shall, unless the contrary is proved, be presumed to give accurate readings within the manufacturer's specified limits.

(4) The readings of designated machines may be made from a printout or as observed from a visual display unit.

(5) The machines referred to in subsection (1) must be capable wholly or partially in themselves of producing the readings concerned and not merely be receivers of information or data.

**121. Photographic evidence**

(1) Where a photograph is taken of a fishing or related activity and simultaneously the date and time and position from which the photograph is taken are superimposed on the photograph then it shall be presumed, unless the contrary is proved that the photograph was taken on the date, at the time and in the position so appearing.

(2) The presumption in subsection (1) arises only if

- (a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned, and
- (b) the instruments which provide the date, time and position are judicially recognised as being usually accurate or are designated machines or were checked as soon as possible after the taking of the photograph against the instruments.

(3) An authorised officer or an observer who takes a photograph of the kind described in subsection (1) may issue a certificate with the photograph attached and state

- (a) the name, address, official position, country of appointment of the officer and the provision of the enactment under which the officer is appointed;
- (b) the name and the call sign, if known, of a fishing vessel that appears in the photograph;
- (c) the names of the camera, watch or clock or any other instruments, supplying the date and time and the position fixing instruments and a declaration that the officer checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with subsection (2) (b) and that they all appeared to be working correctly;

(£1) the matters set out in subsection (2) (a);



- (e) the accuracy of the fixing instrument used within specified limits; and
- (j) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Section 118 applies to a certificate issued under this section as if it had been a certificate issued under section 117 and a reference in the certificate to section 117 shall be read as a reference to this section.

## 122. Presumptions

(1) A fish found on board a fishing vessel which has been used in the commission of an offence under this Act shall be presumed to have been caught during the commission of that offence, unless the contrary is proved.

(2) Where, in legal proceedings under this Act, the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or any other official record of an enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place at which the event took place, unless the contrary is proved.

(3) Prima facie evidence of an entry in a logbook or any other official record of an enforcement vessel or aircraft may be given by the production of a written copy or extract of the entry certified by an authorised officer as a true copy or accurate extract.

(4) Where in legal proceedings relating to an offence under this Act

(a) an authorised officer gives evidence that the officer had reasonable grounds to believe that a fish to which the charge relates was taken in a specified area of the fishery waters, and

(b) the Court considers that, on the evidence the grounds are reasonable,

the fish shall be presumed to have been so taken, unless the contrary is proved.

(5) Where in legal proceedings for an offence under this Act

(a) an authorised officer gives evidence that the officer had reasonable grounds to believe that a fish to which the charge relates was taken by the use of driftnets, and

(b) the Court considers that, on the evidence, the grounds are reasonable, the

fish shall be presumed to have been so taken, unless the contrary is proved.

(6) Where information is given in respect of a fishing vessel under this Act or an access arrangement in relation to a fishing activity of a foreign fishing vessel, the information shall be presumed to have been given by the master, owner or charterer of the vessel concerned, unless it is proved it was not given by any of them.

(7) An entry in writing or any other mark in or on a log, chart or any other document required to be maintained under this Act or used to record the activities of a foreign fishing vessel shall be deemed to be that of the master, owner or charterer of the vessel.

123. Onus of proof

(1) Where, in proceedings under this Act, a person is charged with having committed an offence involving an act for which a licence, an authorisation or any other permission is required, the onus is on that person to prove that at the relevant time, the requisite licence or authorisation or other permission was held by that person.

(2) Where a person is charged with the contravention of section 61 (2) (b), the onus is on that person to prove that the entry into the fishery waters was for a purpose recognised by international law.

(3) Where a person is charged with the contravention of section 128, the onus is on that person to prove that the information given was true, complete and correct.

**124. Destruction of evidence**

A person who destroys or abandons a fish, fishing gear, net or any other fishing appliance, electric shock device, explosive, poison or any other noxious substance, or any other thing with intent to avoid their seizure or the detection of an offence under this Act commits an offence and is liable on summary conviction to a fine of not less than

(a) \$1,000 and not exceeding \$100,000 in respect of a local industrial or semi industrial fishing vessel or a foreign fishing vessel, or

(b) fifty penalty units and not exceeding five hundred penalty units in any other case.

**125. Liability of master and officers of companies**

(1) Where an offence under this Act is committed by a person on board or employed on a fishing vessel, the master of the vessel shall be deemed to have committed that offence.

(2) Where an offence under this Act is committed by a company or by a member of a partnership firm or business, every director, manager, secretary or other officer of that company directly connected with the activity or any other member of the partnership or other person concerned with the management of the firm or business shall be deemed to have committed the offence unless that person proves to the satisfaction of the Court that

(a) that person used due diligence to secure compliance with the Act, and

(b) the offence was committed without the knowledge, consent or connivance of that person.

**126. Continuing offence**

Each day of a continuing contravention of a provision of this Act constitutes a separate offence and the Court before which a person is charged shall impose a penalty of not more than one percent of the relevant minimum penalty or a penalty, where applicable, within the maximum fine whichever is greater for each day during which the offence continues.

**127. Banning order**

(1) Where a person is convicted of an offence under this Act, the Court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person is banned from going on or remaining aboard a fishing vessel in the fishery waters.

(2) A person who contravenes an order made under subsection (1) and a master of a fishing vessel who has aboard a person the master knows is banned under subsection (1), commits an offence and each person is liable on summary conviction to a fine of not less than

- (a) \$10,000 and not exceeding \$100,000 in the case of a local industrial or semi-industrial fishing vessel or of a foreign fishing vessel, or
- (b) fifty penalty units and not exceeding five hundred penalty units in any other case, or to a term of imprisonment not exceeding twelve months

## PART FIVE

*Miscellaneous Provisions***128. Information documentation must be true, complete and correct**

(1) An information required to be recorded, notified, communicated or reported pursuant to a requirement of this Act shall be true, complete and correct.

(2) A licence, certificate registration or any other document required to be obtained under this Act shall be obtained and held in its original and correct form as required under this Act.

(3) A change of circumstances which has the effect of rendering the information or documentation false, incomplete or misleading shall be notified to the appropriate authority immediately.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding

(a) \$100,000 in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel, or

(b) five hundred penalty units in any other case.

**129. Wilful damage to fishing vessel, gear or other fishing appliance**

A person who wilfully damages or destroys a fishing vessel, gear or any other fishing appliance which belongs to another person is liable on summary conviction to a fine of not less than

- (a) \$50,000 and not exceeding \$2 million where the offender is, or the offence -is, committed in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel, or

(b) two hundred and fifty penalty units and not exceeding one thousand penalty units in any other case,

or to a term of imprisonment not exceeding two years or to both the fine and the imprisonment and in addition shall fully compensate the aggrieved person for the damage or destruction, in the sum of money set by the Court or, in the case of compounding, set by the Commission.

### **130. Import and export of fish, compliance with Exchange Control Act**

(1) A person shall not import into or export from the Republic fish in commercial quantity, unless that person has been granted a permit by the Minister on the advice of the Council.

(2) A permit granted under subsection (1) shall be in the form and be subject to the conditions determined by the Minister.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$50,000 or more than \$1 million or the value of the fish in American dollars, whichever is greater.

(4) Where by a permit or an authorisation a person is permitted to export tuna or any other marine products originating from the country or the fishery waters, that person shall repatriate the foreign exchange obtained from the export in accordance with the Exchange Control Act, 1961 (Act 71).

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding three times the value of the export or not exceeding \$2 million whichever is greater or to a term of imprisonment not exceeding two years.

### **131. Returns for import and export of fish or fish products**

(1) A person who imports or exports fish or fish products shall furnish the Commission with returns in respect of the species, quantity and value of the fish within one month of the import or export, in the form and details directed by the Council.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$1,000.

### **132. Transshipment to be supervised**

(1) Unless authorised in writing by the Commission, a fishing vessel shall not be used for transshipment of fish in the fishery waters without the supervision of an authorised officer or under any other arrangement and conditions approved in advance by the Council.

(2) The master, owner or charterer of a vessel used in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$100,000 and not more than \$2 million in respect of a foreign fishing vessel, or a local industrial or semi-industrial fishing vessel, or

...

(b) two hundred and fifty penalty units and not more than one thousand penalty units in the case of a canoe,

and in addition to the fine, all the fish and fish products on the vessel shall be confiscated to the Republic.

### **133. Licence, landing requirements for transshipment and export of tuna**

(1) Unless otherwise provided in this Act, a person shall not tranship or export tuna in or from the fishery waters without

(a) a licence or an authorisation issued or granted by the Minister on the recommendation of the Commission, and

(b) first landing all the tuna in the Republic.

(2) A person who acts contrary to subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$10,000 and not exceeding \$1 million.

(3) Regulations may be made to provide further for matters relating to tuna fishing.

### **134. Licensed fishing vessels prohibited from landing fish outside Ghana**

(1) Unless otherwise authorised, the owner, master or operator of a fishing vessel registered in the Republic and licensed to fish in the fishery waters shall not land, tranship or discharge any fish outside the Republic, including the high seas.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$10,000 and not more than \$2 million in respect of a foreign fishing vessel or a local industrial or semi-industrial fishing vessel, or a fine not exceeding one thousand penalty units in the case of any other vessel, or three times the value of the catch, whichever is greater, and in addition the licence may be suspended or cancelled.

(3) A person who aids and abets another person in the contravention of subsection (1) shall be deemed to have contravened that subsection.

### **135. Possession of prohibited fishing gear**

(1) Except otherwise provided in this Act, a person shall not, without a permission in writing from the Commission, possess or control fishing gear which is prohibited for use in the fishery waters, unless the gear is located at least two kilometres inland from a shoreline.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than

(a) \$5,000 and not more than \$500,000 in respect of a local industrial or semi industrial vessel or a foreign fishing vessel, or

(b) fifty penalty units and not more than five hundred penalty units in any other case.

**136. Research vessels**

The Minister on the advice of the Council may exempt in writing for the purposes of research or scientific investigation a vessel or person from all or any of the provisions of this Act and shall, in making the exemption, impose the appropriate conditions.

**137. General penalty**

A person who contravenes a mandatory provision of this Act for which a penalty is not provided commits an offence and is liable on summary conviction to a fine not exceeding

- (a) \$500,000 where the offender is or the offence is committed in relation to a foreign fishing vessel,
- (b) \$100,000 where the offender is or the offence is committed in relation to a local industrial or semi-industrial fishing vessel, or
- (c) five hundred penalty units in any other case,

and in addition the catch, fishing gear or any other apparatus or a combination of them involved in the commission of the offence may be forfeited and the fishing licence may be cancelled or suspended for a specified period.

**138. Fines and forfeitures**

(1) Despite the Fines (Penalty Units) Act, 2000 (Act 572) and any other enactment, fines in this Act in respect of foreign fishing vessels and local industrial and semi industrial fishing vessels are expressed in American dollars but may be paid in cedi equivalent except that where the payment relates to a foreign fishing vessel the amount shall be paid in American dollars.

(2) Fines paid in cedis shall be based at the official Bank of Ghana exchange rate between the cedi and the American dollar on the date of payment.

(3) A property forfeited under this Act or the Regulations, shall vest in the Republic and money realised from the sale of forfeited property shall be paid into the Fund established under section 36 of this Act.

**139. Regulations**

(1) The Minister may, on the recommendations of the Council, by legislative instrument, make Regulations

- (a) prescribing measures for the conservation, management, development, licensing and regulation of fisheries or a particular fishery, including total allowable catch and quota system as the Minister considers appropriate;
- (b) for licensing a vessel or class or category of vessels to be used for fishing and related activities or any other purpose pursuant to this Act;
- (c) for licensing or registration of fishing gear and any other equipment or devices used for fishing;
- (d) prescribing the types and sizes of fishing gears and other fishing devices including the sizes of fishing nets that may be used for fishing, where they may be used and prohibited fishing nets;

- (e) in respect of the manufacture, importation and sale of fishing nets;
- (j) indicating landing requirements for a vessel or class or category of vessel or licence;
- (g) on catching, loading, landing, handling, transshipping, transporting, possession and disposal of fish;
- (h) relating to tuna fishing or a specified specie of fish;
- (i) on the importation, export, distribution and marketing of fish and fish products;
  - U) on the licensing, control and use of fish aggregate devices and the rights to the aggregated fish, and prescribing times and the minimum distance from the devices that a vessel may fish;
- (k) prescribing standards and measures for the safety of artisanal fishing;
- (I) prescribing matters relating to satellite monitoring of fishing activities;
- (m) relating to aquaculture, to recreational fishing or to canoe fishing including markings and identity of canoes;
- (n) requiring the provision of statistical and any other information related to fisheries;
- (O) relating to the control, inspection and conditions of operation of fish processing establishments;
- (P) on returns concerning fishing operations required to be submitted to the Commission by licensees;
- (q) on licences and logbooks to be carried on board motor fishing vessels;
- (r) for further conditions for fishing licences;
- (s) prescribing conditions for the approval of charter agreements; and
- (t) generally for the achievement of the purposes of this Act.

(2) The Minister for Transport and Communications in consultation with the Council may make Regulations providing for the

- (a) examination and certification of skippers, second hands and engineers of fishing vessels;
- (b) survey, registration and licensing of fishing vessels; and
- (c) safety and marine radio equipment to be installed in motor fishing vessels.

(3) Regulations made under subsection (1) may

- (a) impose in respect of a contravention of a provision of the Regulation a fine not exceeding \$1 million in respect of local industrial or semi-industrial fishing vessels and foreign fishing vessels and a minimum fine of \$200 in the case of a continuing offence for each day during which the offence is continued;
  - impose a fine not exceeding five penalty units for a contravention of any of
- (b) the Regulations by a canoe or any other artisanal operator; and

(c) provide that the catch, fishing vessel, fishing gear or apparatus or any other item involved in the contravention may be forfeited.

#### 140. Interpretation

In this Act, unless the context otherwise requires,

**"access arrangement"** means a treaty, an agreement or arrangement entered into under section 64;

**"agent"** means a person or unit appointed by the Council to perform designated functions under this Act, or any other agent appointed in accordance with section 67;

**"aquaculture"** means an activity designed to cultivate or farm fish and any other living aquatic resources;

**"artisanal fishing"** means the traditional canoe fishing carried on by a citizen;

**"Auditor-General"** includes an auditor appointed by the Auditor-General;

**"authorised officer"** means a person appointed under section 95;

**"beneficially owned"** means for one's own benefit and not as trustee or agent;

**"canoe"** means a planked dugout, or fabricated vessel which is propelled by means of sails, oars, paddles, poles, outboard engine or a combination of any of them;

**"canoe support vessel"** means a vessel which has entered into a contractual agreement with a group of canoes to fish for the vessel;

**"carrier vessel"** means a vessel that carries fish that has been fished by other vessels but does not fish itself;

**"citizen"** means a citizen of Ghana;

**"closed season"** means a period during which a ban is placed on fishing activities in respect of type of fish, area, zones, method of capture or the parameters specified in the notice;

**"coastal waters"** means that part of the fishery waters lying seaward from the baseline from which the territorial sea extends;

**"commercial fishing"** means a fishing operation resulting or intending or appearing to result in the sale or trade of a fish which may be taken, caught or harvested during the fishing operations, and does not include recreational fishing;

**"competent authority"** means the body or person vested with authority for the purpose concerned;

**"Council"** means the governing body of the Commission;

**"Court"** means a court of competent jurisdiction;

**"Director"** means the Director of Fisheries;

**"drifting gear"** means nets that drift or move at their set depth, on or near the surface under wind or current action;



**"driftnet"** means a net laid out in the sea or river with or without markers or floats or both designed or intended, whilst drifting in the prevailing current or tide, to entangle fish;

**"driftnet fishing activities"** includes fishing with the use of a driftnet and the related activities including transporting, transshipping and processing a driftnet catch, and provision of food, fuel and any other supplies for vessels used or outfitted for driftnet fishing;

**"effort"** means in relation to fishing, the time involved and frequency exercised in fishing activities;

**"enforcement unit"** means the Fisheries Monitoring Control, Surveillance and Enforcement Unit established by section 94;

**"exclusive economic zone"** means that area beyond and adjacent to the territorial sea which does not extend beyond two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured;

**"farming"**, in relation to fish or any other marine vegetation, means the breeding, cultivating and rearing of fish or the cultivating of aquatic vegetation;

**"fish"** includes a living aquatic organism, plant or animal, and a fin-fish, shellfish, coral, reptile and marine mammal, but does not include aquatic birds;

**"fish aggregating device"** includes a man-made or partly man-made floating or semi-submerged device, or directly placed natural materials, whether anchored or not, intended for the purpose of aggregating fish, and a natural floating object on which a device has been placed to facilitate its location;

**"fish processing"** includes a process that adds value to or preserves the fish and the dismembering, cleaning, sorting, lining, freezing, canning, salting and any other process of preserving fish;

**"fish processing establishment"** means a place, other than a licensed fishing vessel where fish is canned, dried, gutted, salted, iced, chilled, frozen, smoked or otherwise processed for sale by wholesale in or outside the country;

**"fishery" or "fisheries"** means one or more stocks of fish or the operations based on those stocks which can be treated as a unit for purposes of conservation and management, taking into account geographical, scientific, technical, cultural, economic, recreational and any other relevant characteristics;

**"fishery plan"** means a plan for the management, development and conservation of fish;

**"fishery waters"** includes the waters over which the Republic has fisheries jurisdiction or sovereign rights, including reverie systems, internal waters, territorial sea and exclusive economic zone and any other waters over which fisheries jurisdiction may be claimed from time to time;

**"fishing"** means,

- (a) searching for, catching, taking or harvesting fish,
- (b) the attempted searching for, catching, taking or harvesting of fish,

- (c) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish,
- (d) placing, searching for or recovering a fish aggregating device or associated equipment including radio beacons,
- (e) an operation at sea in support of or in preparation for an activity within the meaning of this heading, or
- (j) the use of an aircraft in relation to an activity described in this definition;

**"fishing gear"** means an equipment, implement or any other thing that can be used in the act of fishing, whether or not it is used in connection with a vessel, including a fishing net, rope, line, float, trap, hook, winch, boat or an aircraft;

**"fishing licences"** includes a fishing right;

**"fishing vessels"** includes a vessel, boat, ship or any other craft which is used for, equipped to be used for, or of a type that is normally used for

- (a) fishing,
- (b) the processing or storage of fish or fish products,
- (c) the supply or support of vessels used for purposes described in paragraphs (a) or (b),
- (d) the transportation of fish or fish products from the fishing grounds,

or related activities, a canoe, motor fishing vessel and ancillary vessel, but does not include a vessel used for the transportation of fish or fish products to or from a port of the Republic as a part of its general cargo;

**"fixed fishing gears"** includes fishing gear deposited on or attached directly or in directly to the water bed, fish traps, fishing stakes and anchored gill nets;

**"foreign fishing vessels"** means a fishing vessel other than a local industrial or semi-industrial fishing vessel or a canoe;

**"functions"** includes powers and duties;

**"Funds"** means the Fisheries Development Fund established under section 36;

**"Government"** means the Government of the Republic of Ghana;

**"industrial fishing vessels"** means a motor fishing vessel equipped with hydraulic equipment and using industrial gears;

**"inshore exclusion zones"** means that area of the fishery waters described in section 81 (1);

**"large local semi-industrial vessels"** means a local semi-industrial vessel of a length of ten metres or more;

**"length"** in relation to a vessel means the overall length from bow to stern;

**"licensed fishing vessel"** means a fishing vessel specified in a valid fishing licence;

**"local fishing licence"** means a fishing licence issued under this Act in respect of a local industrial or semi-industrial fishing vessel and a licence for a canoe;

**"local fishing vessel"** means a fishing vessel as described in section 47 or 52 (2) and artisanal and motor vessels;

**"marine reserved"** means a reserve established in the fishery waters in accordance with this Act;

**"master, in relation to a fishing vessel,"** means the person for the time being in command or apparently in charge of that vessel;

**"Minister"** means the Minister responsible for Fisheries;

**"Ministry"** means the Ministry charged with responsibility for Fishery;

**"moving gear"** means a fishing gear dragged, towed or moved by any means for the purpose of fishing;

**"motor fishing vessel"** means a fishing vessel other than a canoe which is, at relevant times, constructed or adapted for the purpose of fishing and equipped with one or more inboard engines for the purpose of moving through water;

**"operator"** includes a person who is in charge of, directs or controls a vessel, the owner, charterer and master;

**"over fishing"** means operating a fishery beyond the level of exploitation necessary to ensure sustainable yield of the fishery resources;

**"owner"**, in relation to a fishing vessel, includes a person exercising or discharging or claiming the right of accepting the obligation to exercise or discharge any of the functions of an owner whether on behalf of the owner or on behalf of another and a person who is the owner jointly with any other person or persons and a manager, director or secretary of a body corporate or company, but does not include a person in possession under a charter-party;

**"qualified company"** means a company or partnership,

(a) registered under the Companies Act, 1963 (Act 179) or with its principal place of business in the Republic, and

(b) the shares in which are beneficially owned wholly by the Government, a citizen, a public corporation or an association of any of them;

**"recreational fishing"** means fishing done for leisure and not for the purpose of subsistence, barter or sale of fish;

**"Regulation"** means the relevant Regulations made under this Act;

**"related activity"** includes doing, attempting or preparing to do or having done any of the following

(a) transshipment,

(b) storing, processing or transporting fish taken from the fishery waters up to the time the fish is first landed, or

(c) refueling or supplying fishing vessels or performing any other activities in support of fishing operations;

**"Republic"** means the Republic of Ghana;

**"reverie system"** includes a natural drainage system comprising rivers and their tributaries which originate from the sources and terminate at their estuaries, and lagoon, lake, an impoundment, a dam or weir artificially created on the reverie system;

**"seaworthiness"** means the fitness of a vessel with reference to the condition of its hull and machinery, the extent of its fuel and provisions, supply, the quality of its officers and crew, and its adaptability for the type of voyage proposed;

**"small local semi-industrial vessel"** means a local fishing vessel of a length below ten metres;

**"seine"** includes fishing gear in the form of a net which is used to capture fish by surrounding them and pulling them vertically or horizontally from the water, and beach seine, purse seine and ring nets;

**"semi-industrial vessel"** means a motor fishing vessel powered by an inboard engine, and excludes artisanal fishing vessels and industrial vessels as defined in this section;

**"sustainable yield"** means the quantity of fish that can be taken from the resource from year to year without danger of collapse or stock depletion;

**"support vessel"** means a vessel carrying out operations in connection with and in support of a fishing vessel, including supply and any other fishing activities;

**"surveillance officer"** includes an authorised officer of a vessel or an aircraft used for the enforcement of this Act;

**"towing gear"** means fishing gear with a bag or cod-end which is towed at the bottom or mid-water by a motor fishing vessel and used for the purpose of taking fish;

**"transshipment"** means transferring a fish or fish products to or from a vessel, whether or not the fish has first been taken on board the vessel from which the fish is passed;

**"trial fishing operations"** means fishing operations undertaken over a limited period of time by virtue of section 65 for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of fishing operations locally or in the region of the operations;

**"tuna"** includes tuna-like species of fish and sharks;

**"vessel"** means a fishing vessel;

**"zone"** means the inshore economic zone declared under section 81.

#### 141. Repeal and saving

(1) The Fisheries Law, 1991 (P.N.D.C.L. 256) other than Part One, (Building and Importation of Motor Fishing Vessels) and the Fisheries Commission Act, 1993 (Act 457) are hereby repealed.

(1A) Part One (Building and Importation of Motor Fishing Vessels) of the Fisheries Law, 1991 (P.N.D.C.L. 256) provides as follows:

**1. Licence for building of motor fishing vessels, etc.**

(1) No person shall undertake in Ghana the building of any motor fishing vessel unless he has been granted a licence to do so by the Secretary for Industries in consultation with the Secretaries for Transport and Communications and Agriculture.

(2) The design for the building of a motor fishing vessel shall be subject to the approval of the Shipping Commissioner.

(3) The building of any motor fishing vessel in Ghana shall be supervised by a surveyor employed by the person who commissioned the building of the vessel and it shall be the duty of such employer to submit periodic progress reports of the work on the vessel to the Shipping Commissioner.

(4) No person shall sell or offer for sale, whether within or outside Ghana, any new motor fishing vessel or craft built in Ghana unless there has been issued in respect of that vessel a certificate of seaworthiness by the Shipping Commissioner in the prescribed form.

(5) The Secretary for Transport and Communications may in consultation with the Secretary by legislative instrument make regulations prescribing the standards and specifications for the design and construction of different types of motor fishing vessels or craft and also for the forms of applications, licence and certificate of seaworthiness and fees payable for such licence and certificate.

(6) Any person who contravenes subsection (1), (2), (3) or (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding e500,00.00 or to imprisonment for a term not exceeding 2 years or to both; and in addition the Court may order the forfeiture of the vessel in respect of which the offence was committed."

**2. Importation of foreign built motor fishing vessels**

(1) No person shall

(a) without the prior approval in writing granted by the Secretary on the advice of the Secretary responsible for Transport and Communications import into Ghana any motor fishing vessel; or

(b) import into Ghana any motor fishing vessel which is more than five years of age from the date of construction or more than seven years from the date of construction in the case of a tuna fishing vessel.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding e500,000 or to a term of imprisonment not exceeding 2 years or to both; and in addition the Court may order the forfeiture of the vessel in respect of which the offence was committed

(3) Despite the repeal under subsection (1) the Regulations, a notice, licence, certificate, permit, or any other authorisation made, given, or issued under any of the repealed

enactments shall, unless inconsistent with this Act, continue to have effect as if made, given or issued under this Act.

(3) Tuna vessels which, on the commencement of this Act, hold valid licences issued under the repealed enactment shall comply with section 47 (1) (b) of this Act within six months of the coming into force of this Act.

(4) The Fisheries Commission in existence at the commencement of this Act shall, on the appointment of the members of the Council under this Act, cease to exist.

(5) On the coming into force of this Act the Fisheries Department of the Ministry of Food and Agriculture shall constitute a secretariat of the Commission established under section 1 of this Act.

(6) The rights, assets, property, obligations, liabilities and staff of the Fisheries Department of the Ministry of Food and Agriculture and the Fisheries Commission in existence immediately before the coming into force of this Act are hereby transferred to the Commission established under section 1 of this Act.

#### SCHEDULE

[Section 81 (1)]

##### *Area of Inshore Economic Zone*

The coastal waters between the coastline and the 30-metre isobaths or the 6 nautical miles offshore limit whichever is farther.