

ANTIGUA AND BARBUDA
THE FISHERIES ACT, 2006
ARRANGEMENT OF SECTIONS

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[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

17th November, 2006.

ANTIGUA AND BARBUDA

No. 22 of 2006

AN ACT to provide for the development and management of fisheries and matters incidental thereto.

*[Published in the Official Gazette Vol. XXVI
No. 78 dated 28th December, 2006.]*

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I

PRELIMINARY

1. (1) This Act may be cited as the Fisheries Act, 2006 and shall come into force on such date as the Minister may appoint by Order published in the *Gazette*. Short title and commencement.

(2) An Order may appoint different dates for different provisions or for different purposes of the same provision.

2. (1) In this Act—

Interpretation and application.

“access agreement” means an agreement under section 26;

“Antigua and Barbuda waters” means the waters of the exclusive economic zone, fisheries zone, territorial sea, archipelagic waters and internal waters as defined in the Maritime Areas Act, 1982 (Cap. 260) and any other waters over which Antigua and Barbuda claims fisheries jurisdiction and any low water elevation located in those waters;

“aquaculture” means the culture, propagation and ranching of aquatic plants and fish from eggs, spores, spats or seeds and includes the aggregation, capture or keeping of fish for the purposes of public exhibition or observation or other recreational purposes;

“aquaculture facility” includes any equipment, construction or site in which aquaculture is conducted;

“aquaculture plan” means the plan for the management and development of aquaculture prepared under section 6;

“artificial reef” means a man-made or partly man-made submerged device put in the sea to imitate a natural reef;

“authorised officer” means a fisheries officer, a customs officer, member of the Antigua and Barbuda Defence Force or police officer and any other person or category of persons designated as an authorised officer by the Minister under section 61;

“Chief Fisheries Officer” means the person appointed as Chief Fisheries Officer under section 4(2)(a);

“fish” means any aquatic animal, whether piscine or not and includes marine mammals, shellfish, turtles, molluscs, crustaceans, corals, sponges, echinoderms, their young and their eggs;

“fish aggregating device” means any man-made or partly man-made floating or submerged device, whether anchored or not, intended for the purpose of aggregating fish and includes any natural floating object on which a device has been placed to facilitate its location;

“fisheries officer” means the Chief Fisheries Officer, Deputy Chief Fisheries Officer, Senior Fisheries Officer, Fisheries Officer or Fisheries Assistant appointed under section 4(2);

“fisheries plan” means the plan for the management and development of fisheries prepared under section 5;

“fishery” means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics;

“fishery product” means any parts of a fish, including its roe;

“fishing” means the harvesting or taking of marine flora, seeking to catch, catching, taking or killing fish by any method, or the placing of a fish aggregating device, and includes searching for fish;

“fishing licence” means a foreign fishing licence or a local fishing licence, including any category of such licences;

“fishing vessel” includes a vessel used for fishing or related activities including commercial fishing, sports fishing and recreational fishing;

“foreign fishing licence” means a licence issued in respect of a foreign fishing vessel under section 27;

“foreign fishing vessel” means a fishing vessel other than a local fishing vessel;

“foreign sports fishing vessel” means a foreign fishing vessel in respect of which a sports fishing licence has been issued;

“large driftnet” means a gillnet or other net or a combination of nets which is more than one kilometre in length, the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of or in the water, irrespective of whether the net is used or intended to be used while attached to a boat, but does not include a net attached to a point of land or to the seabed;

“large driftnet fishing” means fishing involving the use of large driftnets;

“licence” means a licence issued under this Act;

“local fishing licence” means a licence issued in respect of a local fishing vessel under section 30;

“local fishing vessel” means a fishing vessel—

- (a) wholly owned by the Government or by a public corporation established by or under any law of Antigua and Barbuda;
- (b) wholly owned by one or more persons who are citizens of Antigua and Barbuda;
- (c) wholly owned by a company, society or other association of persons incorporated or established under the laws of Antigua and Barbuda of which at least two-thirds of the voting shares are held by citizens of Antigua and Barbuda; or
- (d) wholly owned by a body corporate designated as an authorised body corporate by the Minister under section 3;

“locally based foreign fishing vessel” means a foreign fishing vessel based in Antigua and Barbuda which lands all its catch in Antigua and Barbuda;

“master” means the person or persons having control of a fishing vessel at any given time, and includes a fishing master, fleet commander or pilot having control of such vessel;

“place for sale” means the act of selling, placing, holding, delivering, offering or displaying for sale or attempting to sell, place, hold, deliver, offer or display for sale;

“prescribed” means prescribed by the Minister by regulations;

“registration number” means the sequence of letters or numerals allocated to a vessel under section 12(5);

“related activities” in relation to fishing means—

- (a) trans-shipping fish and fishery products to or from a vessel or attempting or preparing to do so;
- (b) preparing, freezing, chilling, packaging, processing, storing or transporting of fish and fishery products up to the time it is first landed or attempting or preparing to do so; or
- (c) refuelling or supplying fishing vessels, or performing other activities in support of fishing or attempting or preparing to do so.

“test fishing operations” means any fishing operation undertaken over a limited period of time with the approval of the Chief Fisheries Officer for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations;

“trans-ship” means transferring fish from one vessel to another; and

“vessel” includes a ship, boat, canoe, lighter, floating platform, decked boat equipped with inboard or out-board motor or any other craft, whether surface craft or submarine.

(2) This Act shall have extra-territorial application according to its provisions and tenor.

3. (1) The Minister may, by notice published in the *Gazette*, designate a body corporate as an authorised body corporate if—

Authorised body
corporate.

- (a) it is established under and subject to the laws of Antigua and Barbuda and has its principal place of business in Antigua and Barbuda;
- (b) at least two-thirds of its voting share capital is held and controlled by citizens of Antigua and Barbuda or in the case of a body corporate not having share capital, not less than two-thirds of its members are citizens of Antigua and Barbuda;

- (c) the majority of the directors, the chairman of the board and the managing director are citizens of, and domiciled in Antigua and Barbuda; and
- (d) the Minister is satisfied that the body corporate is contributing, or is likely to contribute substantially to the economic development of Antigua and Barbuda and it is in the interests of Antigua and Barbuda that the body corporate be so designated.

(2) A person applying for the designation of a body corporate as an authorised body corporate shall declare any agreement or arrangement whereby a legal or equitable interest in the vessel, the company or its shares are held, directly or indirectly, or the voting shares are controlled, by a person who is not a citizen of Antigua and Barbuda.

(3) A person who knowingly contravenes any of the provisions of subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months, or to both.

PART II

FISHERIES MANAGEMENT AND DEVELOPMENT

Promotion of responsible fisheries.

4. (1) The Minister shall take such measures as he thinks fit under this Act to promote the sustainable development and responsible management of fisheries and aquaculture activities in Antigua and Barbuda waters and in the territory of Antigua and Barbuda so as to ensure the optimum utilisation of the fisheries resources for the benefit of Antigua and Barbuda and to ensure the conservation of the fish resources and the ecosystems to which they belong.

(2) There shall be appointed—

- (a) a Chief Fisheries Officer;
- (b) a Deputy Chief Fisheries Officer; and
- (c) such other Senior Fisheries Officers, Fisheries Officers and other Assistant Fisheries Officers as may be necessary to give effect to this Act.

(3) Appointments made under subsection (2) shall be public officers.

5. (1) The Chief Fisheries Officer shall prepare and keep under review a plan for the responsible management and sustainable development of fisheries in Antigua and Barbuda waters and in the territory of Antigua and Barbuda.

Fisheries management and development plan.

(2) The fisheries plan shall adopt a precautionary approach to fisheries management.

(3) The fisheries plan shall—

- (a) identify each fishery and assess the present state of its exploitation;
- (b) identify and assess, to the greatest extent possible, the present state of species belonging to the same ecosystem or associated with or dependent upon the target species of each fishery;
- (c) specify the objectives to be achieved in the management of each fishery;
- (d) specify the management and development measures to be taken; and
- (e) specify the licensing programmes to be followed for each fishery, the limitations, if any, to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels.

(4) In the preparation and review of the fisheries plan the Chief Fisheries Officer shall consult with the local fishers, local authorities and such other persons as appear to him to be affected by the fisheries plan.

6. (1) The Chief Fisheries Officer shall prepare and keep under review a plan for the development of responsible aquaculture activities in Antigua and Barbuda waters and in the territory of Antigua and Barbuda.

Aquaculture management and development plan.

(2) The aquaculture plan shall adopt a precautionary approach to aquaculture development.

(3) The aquaculture plan shall—

- (a) identify areas for development of aquaculture activities and similarly identify areas where aquaculture activities are prohibited;
- (b) identify research priorities and species;
- (c) specify the objectives to be achieved in the development of aquaculture activities; and
- (d) specify the management and development measures to be taken.

(4) In the preparation and review of the aquaculture plan the Chief Fisheries Officer shall consult with other relevant government authorities, local fishers, local authorities and such other persons as appear to him to be affected by the aquaculture plan.

Fisheries Advisory Committee.

7. (1) The Minister may appoint a Fisheries Advisory Committee to advise on the responsible management and sustainable development of fisheries and aquaculture activities.

(2) A Fisheries Advisory Committee appointed under this section shall include the Chief Fisheries Officer and such other persons as the Minister may consider capable of advising on the responsible management and sustainable development of fisheries and aquaculture activities.

Regional cooperation in fisheries management.

8. (1) Subject to the Ratification of Treaties Act (Cap. 364) the Minister may, with the approval of the Cabinet, enter into arrangements or agreements with other countries in the region or with a competent regional organisation, providing for—

- (a) the harmonisation of systems for the collection of statistics, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;
- (b) the harmonisation of licensing procedures and conditions in respect of foreign fishing vessels;
- (c) schemes for the issue of fishing licences in respect of foreign fishing vessels by a competent regional

organisation on behalf of the Minister and the recognition of regional licences issued by such organisation, subject to such conditions as may be specified in the agreement or arrangement and to such additional conditions as the Minister may specify;

- (d) the taking of joint or harmonised enforcement measures in respect of foreign fishing vessels contravening fisheries laws in the region;
- (e) the establishment and operation of joint or regional fisheries management bodies where appropriate; and
- (f) other co-operative measures, where appropriate, which may include the establishment of a regional register of fishing vessels.

(2) For the purpose of giving effect to an arrangement or agreement entered into under this section, the Minister may by Order published in the *Gazette*—

- (a) authorise a competent organisation designated in the Order to issue fishing licences in respect of foreign fishing vessels on behalf of the Minister, within the limits set out in the Order;
- (b) exempt from the requirements of section 27 a foreign fishing vessel or class of foreign fishing vessels holding valid regional fishing licences issued by a competent regional organisation designated in the Order; and
- (c) prescribe the conditions to be observed by foreign fishing vessels exempted under paragraph (b) while fishing or navigating in Antigua and Barbuda waters.

9. (1) The Minister may by notice published in the *Gazette*—

- (a) designate an area as a local fisheries management area; and
- (b) designate a local authority, fishers' cooperative or fishers' association, or other appropriate body rep-

Local fisheries
management ar-
eas.

representing fishers in the area as the local Fisheries Management Authority in that area.

(2) Where there is no appropriate body representing fishers in the area, the Minister may promote the formation of such a body.

(3) The Chief Fisheries Officer shall, wherever, practicable provide to a local fisheries management authority such assistance as may be reasonably necessary for the performance of its functions.

By-laws.

10. (1) A local fisheries management authority designated under section 9(1)(b) may make by-laws, not inconsistent with this Act or regulations made under this Act, regulating the conduct of fishing operations in the designated area.

(2) By-laws made under subsection (1) shall be approved by the Minister and published in the Gazette before they come into effect.

(3) By-laws made under subsection (1) may provide that a breach of a by-law shall constitute an offence and may provide for penalties on summary conviction by a fine not exceeding \$500.

PART III

REGISTRATION, CONSTRUCTION, CERTIFICATION AND INSPECTION OF LOCAL FISHING VESSELS

No fishing without registration.

11. (1) No local fishing vessel shall be used for fishing or related activities in Antigua and Barbuda waters, unless such vessel has been registered in accordance with the provisions of this Act.

(2) If a local fishing vessel is used for fishing in contravention of this section the owner of such vessel if he permits it to be so used, the charterer of the vessel and every person who so uses it commits an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 2 years, or to both.

Registration of local fishing vessels.

12. (1) An application for registration of a local fishing vessel under this Act shall be made in the prescribed form to the Chief Fisheries Officer by or on behalf of the owner of the vessel, and

shall be accompanied by the prescribed supporting documents, information and application fee.

(2) On receipt of an application made under this section, the Chief Fisheries Officer shall as soon as practicable, inspect or cause to be inspected the vessel to which the application refers.

(3) If on an inspection under subsection (2) the vessel—

- (a) is found to be fit for fishing;
- (b) meets the ownership requirements for local fishing vessels;
- (c) either
 - (i) holds such certificate attesting that it meets any standards in respect of sea worthiness, safety equipment and sanitary or other condition as may be prescribed for vessels of that category or class; or
 - (ii) meets such standards in respect of sea worthiness, safety equipment and sanitary or other condition as may be prescribed for vessels of that category or class; and
- (d) meets such other requirements as may be prescribed, the Chief Fisheries Officer shall, on payment by the applicant of the prescribed registration fee, issue to the owner of the vessel a registration certificate thereof in the prescribed form.

(4) A registration certificate issued under this section shall contain such information as may be prescribed.

(5) On the registration of a local fishing vessel under this section, the Chief Fisheries Officer shall allocate to that vessel a registration number, being a sequence of letters or numerals, which the Chief Fisheries Officer shall cause to be entered in the register of local fishing vessels.

(6) The same registration number of a registered local fishing vessel shall not be allocated to any other local fishing vessel.

(7) The owner of the local fishing vessel registered under this Act shall pay a prescribed annual fee in order for the local fishing vessel to be maintained on the register.

Conditions for registration.

13. (1) Every local fishing vessel shall hold such certificate attesting that it meets any standards prescribed in respect of sea worthiness, safety equipment and sanitary or other condition for vessels of that category or class as may be prescribed.

(2) Every registered local fishing vessel shall display an approved name in the form and manner as may be prescribed.

(3) Every registered local fishing vessel shall display the registration number allocated to that fishing vessel or shall be marked with such other identification markings and in such manner as may be prescribed.

(4) Where a local fishing vessel displays a registration number not allocated to that vessel or contravenes subsections (2) or (3) the master and owner of that vessel each commit an offence and are each liable upon summary conviction to a fine not exceeding \$50,000.

Custody and loss of certificate.

14. (1) Subject to subsection (3), a person shall not operate a local fishing vessel in respect of which a registration certificate has been issued unless the certificate is on board the vessel, and a person who contravenes this subsection commits an offence and is liable on summary conviction to a fine not exceeding \$25,000.

(2) A person who is in possession of a local fishing vessel's registration certificate shall deliver it to the Chief Fisheries Officer on request or as required under this Act.

(3) If a registration certificate of a local fishing vessel issued under this Act is mislaid, lost or destroyed, the Chief Fisheries Officer, on application by or on behalf of the owner of the vessel in the prescribed form and manner, including any information or accompanied by such documents as may be required by the Chief Fisheries Officer, and accompanied by the prescribed fee, shall issue a replacement registration certificate.

(4) A registration certificate shall not be subject to detention because of any title to, lien on, charge on or interest in the regis-

tered local fishing vessel that is claimed by an owner, mortgagee, charterer or operator of the ship or by any other person.

15. (1) The Chief Fisheries Officer shall keep or cause to be kept a register of local fishing vessels registered under section 12 and shall cause to be entered in the register such particulars as may be prescribed.

Register of local fishing vessels.

(2) The Chief Fisheries Officer on written application by the owner of a local fishing vessel registered under section 12 or other person holding a mortgage, charge or other lien over such vessel, shall cause to be entered in the register of local fishing vessels with respect to such vessel, details of any mortgage.

(3) The contents of the register of local fishing vessels shall be prima facie evidence of the facts contained therein in all proceedings under this Act.

(4) The register kept under subsection (1) shall be used only for the purposes of this Act and otherwise as the Minister may prescribe.

(5) The Minister may prescribe how information kept in the register shall be stored, used and disseminated.

16. (1) On the sale or other change of ownership of a local fishing vessel registered under this Act, the previous owner and the new owner shall, within fourteen days of the sale or other changes of ownership, notify the Chief Fisheries Officer in writing of the change in ownership and of the name and address of the new owner, and return the registration certificate for cancellation.

Notification of change of ownership and of other changes.

(2) On receipt of a notification under subsection (1), the Chief Fisheries Officer shall cancel the original registration certificate of the vessel and may, on application under section 12 issue to the new owner of the local fishing vessel a new registration certificate.

(3) If a registered local fishing vessel is altered to the extent that it no longer corresponds with its description or particulars set out in its registration certificate, the owner or person acting on behalf of the owner shall notify the Chief Fisheries Officer in writing within 30 days after the alteration, request a survey or inspection of the altered vessel, and pay the prescribed fee.

(4) Notification of a change in the information provided in the application for registration under section 12 or such other description or particular as may be prescribed, shall be made by or on behalf of the owner of the registered local fishing vessel to the Chief Fisheries Officer.

(5) The Chief Fisheries Officer, on the notification of a change and the prescribed fee under this section, shall cause the necessary changes to be made in the Register.

(6) A person who contravenes subsection (1), (3) or (4) commits an offence and is liable on summary conviction to a fine not exceeding \$25,000.

Death of registered owner of local fishing vessel.

17. (1) On the death of the registered owner of a local fishing vessel, the person into whose possession the vessel shall lawfully come or the legal representative of the deceased owner, shall within thirty 30 days of its coming into his possession, give notice of the fact to the Chief Fisheries Officer who shall give such directives in writing, as he may think fit, as to the use of the vessel pending registration in the name of a new owner.

(2) A person to whom written permission is given to use such local fishing vessel for fishing, pending registration, in the name of a new owner, shall for the purposes of this Act, be deemed to be the registered owner of such vessel, during the period for which such written permission is given.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$25,000.

Suspension, cancellation and reinstatement of registration.

18. (1) The Chief Fisheries Officer may suspend or cancel the registration of a local fishing vessel if—

- (a) it is not marked in accordance with section 13(3);
- (b) its registration certificate has expired;
- (c) it does not hold a valid certificate of seaworthiness or survey, where required;
- (d) the owner fails to comply with section 16;

- (e) notification is not given under section 17 in such circumstances as it is required; or
- (f) suspension or cancellation is required on such grounds as may be prescribed.

(2) The Chief Fisheries Officer shall cancel the registration of a local fishing vessel if—

- (a) the vessel has been lost, destroyed or removed from service;
- (b) the vessel no longer is a local fishing vessel; or
- (c) he is satisfied that the survey or inspection of a vessel that has been altered shows that the vessel should be re-registered.

(3) The owner of a local fishing vessel registered under this Act shall report the loss or destruction of the vessel or of its removal from service as a local fishing vessel as soon as practicable after such loss, destruction or removal from service and in any case within a period of 30 days after the event, and shall at that time return the registration certificate issued in respect of that vessel

(4) The owner of a local fishing vessel registered under this Act may, where that vessel is no longer to be used for fishing request in writing the cancellation of registration of the vessel and shall at that time return the registration certificate issued in respect of that vessel.

(5) The Chief Fisheries Officer, on receipt of the registration certificate returned under subsection (4) shall cause the cancellation of registration of the vessel to be noted on the register.

(6) The Chief Fisheries Officer may, where he is satisfied that a local fishing vessel has not been used for fishing for a period of one year or more, cause the cancellation of registration of the vessel to be noted on the register, without receiving a report of that vessel's decommissioning as a local fishing vessel under subsection (3) or a request for cancellation of registration under subsection (4).

(7) The Chief Fisheries Officer may reinstate the registration of a local fishing vessel cancelled under this section if information is brought to his attention attesting that the registration of the vessel should not have been cancelled.

(8) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding \$25,000.

Mortgage of local fishing vessels.

19. (1) A local fishing vessel registered under this Act and in respect of which a certificate has been issued attesting that it meets the standards in respect of sea worthiness, safety equipment and sanitary or other condition prescribed under this Act may be made a security for a loan, charge or other valuable consideration by means of a mortgage. On the production of the instrument confirming the mortgage to the Chief Fisheries Officer such mortgage shall be recorded in the register.

(2) If there are more than one mortgage or charge recorded in respect of the same fishing vessel, the mortgages shall, subject to the provisions of those mortgages, notwithstanding any express, implied or constructive notice, have a priority according to the date on which each mortgage or charge is recorded in the register and not according to the date of each mortgage itself.

Mortgagee of local fishing vessel not to be deemed owner.

20. Except in so far as may be necessary for making a mortgaged fishing vessel available as a security for the mortgage debt, the mortgagee shall not, by reason of his mortgage be deemed to be the owner of the vessel, nor shall the mortgagor be deemed to have ceased to be the owner of the vessel.

Rights of mortgagees.

21. A registered mortgagee of a local fishing vessel shall be entitled to sell or otherwise dispose of the mortgaged vessel in order to recover the amount due under the mortgage and if he sells the vessel, he shall hold the proceeds of the sale in excess of the amount due to him, in trust for later mortgagees if any, and the owner, but where there is more than one registered mortgage of the same vessel, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the vessel without the concurrence of every prior mortgagee.

Transfer of mortgages.

22. (1) A registered mortgage of a local fishing vessel may be transferred to any person and on the production of the instrument effecting the transfer the Chief Fisheries Officer shall record

it by entering in the register the name of the transferee as the mortgagee of the fishing vessel and shall by memorandum under his hand, notify on the instrument of transfer that it has been recorded by him stating the day and hour of record.

(2) Subject to the provisions of the instrument of transfer, the person to whom any such mortgage has been transferred shall enjoy the same right of preference as was enjoyed by the transferor.

23. The construction and arrangement of a fishing vessel in Antigua and Barbuda or abroad and imported into Antigua and Barbuda shall be in accordance with the requirements of this Act and such standards as may be prescribed to ensure the safe operation of the vessel and the health and safety of the crew.

Construction of new fishing vessels to meet standards.

24. (1) A person intending to—

Construction and alteration of local fishing vessels.

- (a) construct a local fishing vessel, in respect of which a certificate has to be issued attesting that it meets any standards in respect of sea worthiness, safety equipment and sanitary or other condition prescribed under this Act;
- (b) alter a registered local fishing vessel, in respect of which a certificate has to be issued attesting that it meets any standards in respect of sea worthiness, safety equipment and sanitary or other condition prescribed under this Act, so that the particulars of that vessel do not correspond to those on the registration certificate of the vessel; or
- (c) convert an existing vessel into a local fishing vessel, in respect of which a certificate has to be issued attesting that it meets any standards in respect of sea worthiness, safety equipment and sanitary or other condition prescribed under this Act,

shall inform the Chief Fisheries Officer of the intention to construct, alter or convert the vessel and shall provide the Chief Fisheries Officer with such information describing the construction, alteration or conversion, as the Chief Fisheries Officer may require.

(2) Within 21 days of the Chief Fisheries Officer being furnished with the information required under subsection (1), the Chief Fisheries Officer shall inform the person furnishing the information of any authorisations, permits and licences of relevance to the operation of the planned vessel and of any standards in respect of sea worthiness, safety equipment and sanitary or other condition applicable in respect of the planned vessel.

Inspection, suspension and cancellation of registration of local fishing vessels.

25. (1) An authorised officer shall, following an inspection under section 62(1)(c) make a report to the Chief Fisheries Officer setting out the results of the inspection.

(2) Where, having considered the report of an inspection under subsection (1), the Chief Fisheries Officer is satisfied that the local fishing vessel is not fit for the purpose of fishing or its equipment is not being maintained in accordance with the prescribed standards he may cancel or suspend the registration of that fishing vessel.

PART IV

AUTHORISATION OF FISHING AND PROCESSING OPERATIONS

Fisheries access agreement.

26. (1) Subject to the Ratification of Treaties Act (Cap. 364) the Minister, with the approval of the Cabinet, may enter into agreements with other states and with associations representing foreign vessel owners or charterers, providing for the allocation of fishing rights to vessels from those countries or associations.

(2) The fishing rights allocated under agreements entered into under this section shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the fisheries plan.

(3) An agreement entered into under this section shall include a provision establishing the responsibility of the foreign country or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in Antigua and Barbuda waters.

(4) For the purpose of this section the term “State” shall include any regional organisation which is empowered to negotiate access agreements on behalf of member states.

(5) For the purposes of this section, “association” means an organisation which, in the opinion of the Minister, is capable of undertaking the responsibility of ensuring compliance by its members with the terms and conditions of an access agreement and does not include any body corporate with limited liability which owns fishing vessels on its own account, whether directly or indirectly.

27. (1) No foreign fishing vessel shall be used for fishing or related activities in Antigua and Barbuda waters without a valid foreign fishing licence issued under this section.

Foreign fishing licence.

(2) An application for a foreign fishing licence shall be made in the prescribed form to the Minister or to a competent regional organisation authorised to issue fishing licences under section 8(2)(a) or, in the case of a licence for a foreign sports fishing vessel, to the Chief Fisheries Officer and shall be accompanied by the prescribed fee.

(3) Subject to the provisions of this Act and of regulations made under this Act, the Minister, or the Chief Fisheries Officer in respect of foreign sports fishing vessels, may issue a foreign fishing licence authorising a fishing vessel to be used in Antigua and Barbuda waters for such fishing or related activities as may be specified in the licence.

(4) Subject to subsection (5), no foreign fishing licence shall be issued to a foreign vessel unless there is in force with the government of the flag state of the vessel or with an association of which the owner or charterer is a member, an agreement, either entered into under section 26 or to which the Ratification of Treaties Act (Cap. 364) applies, to which the Government is a party.

(5) Subsection (4) shall not apply to a licence issued in respect of—

- (a) test fishing operations;
- (b) a locally based foreign fishing vessel; or

(c) a foreign sports fishing vessel.

(6) Where a foreign fishing vessel, except a foreign sports fishing vessel, is used in contravention of subsection (1) or of any condition of the foreign fishing licence, the master, owner and charterer of that vessel each commit an offence and are each liable on summary conviction, to a fine not exceeding \$3,000,000.

(7) Where a foreign sports fishing vessel is used in contravention of subsection (1) or of any condition of the foreign sports fishing licence, the master, owner and charterer of that vessel each commit an offence and are each liable on summary conviction to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding 12 months, or to both.

Stowage of fishing gear.

28. The fishing gear of a foreign fishing vessel which is prohibited by section 27 from fishing within Antigua and Barbuda waters, shall be stowed in such manner as may be prescribed while within Antigua and Barbuda waters.

Observation of laws.

29. No licence shall relieve a foreign fishing vessel or its master or crew of any obligation or requirements imposed by law concerning navigation, customs, immigration, health or other matters.

Local fishing licences.

30. (1) No local fishing vessel shall be used for fishing or related activities in Antigua and Barbuda waters without a valid local fishing licence in respect of that vessel.

(2) An application for a local fishing licence shall be made in the prescribed form to the Chief Fisheries Officer and shall be accompanied by the prescribed fee.

(3) Subject to subsection (4) the Chief Fisheries Officer may issue a local fishing licence in the prescribed form.

(4) No application for a local fishing licence shall be refused except on the ground that—

(a) that it is necessary to do so in order to give effect to any programme to limit fishing effort as specified in the fisheries plan;

(b) that the Chief Fisheries Officer has reason to believe that the applicant will not comply with the condi-

- tions of the licence, because of a previous history of non-compliance by the applicant;
- (c) that the vessel in respect of which the application is made is not registered as a local fishing vessel under Part III;
 - (d) that the vessel in respect of which the application is made has been used in contravention of this Act or of any condition of a local fishing licence or in breach of any applicable access agreement;
 - (e) the vessel in respect of which the application is made has fished in contravention of applicable international or regional management or conservation measures; or
 - (f) such other grounds as are specified in this Act or in regulations made under this Act.

(5) Where a local fishing vessel is used in contravention of subsection (1) or of any condition of the local fishing vessel licence, the master, owner and charterer of that vessel each commit an offence and are each liable on summary conviction to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding 12 months, or to both.

31. (1) *The Chief Fisheries Officer may authorise test fishing operations using a foreign or local fishing vessel which are in the opinion of the Chief Fisheries Officer bona fide test fishing operations undertaken for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations.*

Test fishing operations.

(2) Authorisations for test fishing operations shall be issued for a limited period of time only not exceeding 14 days, and subject to such general conditions as may be prescribed and to such special conditions as the Chief Fisheries Officer may attach to the authorisation.

(3) Subject to section 27(5), a person undertaking test fishing operations under this section shall not thereby be exempted from the provisions of this Act.

Validity of fishing licences.

32. (1) Unless earlier cancelled in accordance with section 35, a fishing licence shall be valid for a period of not more than twelve months.

(2) Upon cancellation or suspension of the registration of a local fishing vessel in accordance with sections 18 or 25 any licence to fish issued in respect of that vessel shall be cancelled or suspended accordingly, but where the registration of a local fishing licence cancelled under section 18 is reinstated, any licence to fish cancelled under this subsection shall be reinstated accordingly.

(3) The term of a foreign fishing licence shall not extend beyond the term of validity of the applicable access agreement.

(4) No licence shall be transferable except with written permission of the Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister.

Conditions of fishing licences.

33. (1) Every fishing licence shall be in the prescribed form and shall be subject—

- (a) to such general conditions as may be prescribed;
- (b) to such general conditions as may be specified under subsection (2); and
- (c) to such special conditions as may be specified under subsection (3).

(2) The Minister may, by Notice published in the Gazette, specify general conditions additional to those prescribed to which all fishing licences or any category of fishing licences shall be subject including conditions relating to open and closed seasons, prohibited fishing areas, minimum mesh sizes and minimum species sizes to give effect to the fisheries plan.

(3) The Chief Fisheries Officer, or in the case of a licence for a foreign fishing vessel, except a foreign sports fishing vessel, the Minister, may attach to any fishing licence such special conditions as he may think fit.

(4) The Chief Fisheries Officer, or in the case of a licence for a foreign fishing vessel, except a foreign sports fishing vessel, the

Minister, may, where he is satisfied that it is expedient for the proper management of fisheries in Antigua and Barbuda waters, vary any special conditions attached to a fishing licence.

(5) Where the Minister or the Chief Fisheries Officer varies any special conditions attached to a fishing licence he shall notify the licence holder of such variation as soon as practicable.

34. There shall be payable in respect of every fishing licence such fees, royalties or other charges as may be prescribed.

Fees, royalties,
etc.

35. (1) A fishing licence may be cancelled or suspended on any of the grounds set out in subsection (2).

Cancellation and
suspension of fish-
ing licences.

(2) The grounds on which a fishing licence may be cancelled or suspended are that the Minister or the Chief Fisheries Officer is satisfied that—

- (a) it is necessary to do so in order to allow for the proper management of any particular fishery;
- (b) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any condition of the licence or in breach of an applicable access agreement;
- (c) the registration of a local fishing vessel, in respect of which the licence has been issued, has been cancelled or suspended; or
- (d) he is required or authorised to do so in accordance with the provisions of any arrangements or agreement entered into under section 8.

(3) Where a fishing licence has been cancelled or suspended under subsection (1) notification of the cancellation or suspension shall be given to the person to whom the licence was issued

(4) Where a fishing licence has been cancelled or suspended, no portion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension shall be reimbursed to the licensee.

Notices.

36. (1) A notification given under section 33(5) or 35(3) shall be in writing except as otherwise specified in subsection (2).

(2) In the case of foreign fishing vessel, a notification referred to in subsection (1) may be in writing or by telex, radio or such other form as the Minister may consider appropriate.

Appeals.

37. A person aggrieved by a decision of the Chief Fisheries Officer under section 30 or section 35, may within 21 days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final, but subject to judicial review.

Sports fishing
tournaments.

38. (1) No person shall organise or hold a sport fishing event or tournament without the permission in writing of the Chief Fisheries Officer.

(2) In granting a permission under this section the Chief Fisheries Officer may set conditions for the operation of the sport fishing tournament and charge fees therefore.

(8) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$25,000.

Fish processing
establishments.

39. (1) To ensure the quality and safety of fish and fishery products to be sold or offered for sale in or outside of Antigua and Barbuda the Minister may grant to any person a licence to operate a fish processing establishment, an ice plant or a laboratory on payment of such fees and subject to such conditions as may be prescribed.

(2) A person who operates or causes or allows to be operated a fish processing establishment, ice plant or laboratory except under a licence granted under this section and in accordance with the conditions of such licence and any applicable provisions of this Act or regulations made under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$150,000.00.

(3) In this section—

(a) “fish processing establishment” means a vessel or premises on or in which fish or fishery products are

processed, prepared for packaging or processing, frozen, packaged or stored but does not include a fish market;

- (b) “ice plant” means an ice plant in respect of its use or intended use for production of ice to the fishing industry;
- (c) “laboratory” means a laboratory for use by the management of a fish processing establishment, and;
- (d) “fishery product” means any product intended for human consumption that consists wholly or partially of fishery resource and includes food products where fish is the substantial ingredient.

PART V

AQUACULTURE

40. No person may construct, reconstruct, adapt, acquire or operate an aquaculture facility in Antigua and Barbuda waters or in the territory of Antigua and Barbuda without an aquaculture licence from the Chief Fishery Officer and, if necessary, a lease from the Governor-General under section 42.

Authorisation of aquaculture.

41. (1) An aquaculture licence shall be in the prescribed form and shall be subject—

Aquaculture licence.

- (a) to such general conditions as may be prescribed;
- (b) to such general conditions, additional to those prescribed, as may be specified by the Minister by Notice in the Gazette to give effect to the aquaculture plan; and
- (c) to such special conditions as may be attached to an aquaculture licence.

(2) An aquaculture licence shall be issued by the Chief Fisheries Officer if he is satisfied that—

- (a) the applicant has complied with all relevant laws and regulations, including those relating to land development and the protection of the environment;

- (b) where an environmental impact assessment is required under this Act or any other law, an environmental clearance for the project has been issued in accordance with the relevant laws;
- (c) such aquaculture activity does not adversely impact on other economic activities in the area;
- (d) the granting of an authorisation will not create a significant risk of pollution or otherwise adversely affect the environment; and
- (e) the site in respect of which an aquaculture licence or lease is sought is suited for aquaculture or for the type of aquaculture planned, having regard to its general characteristics, traffic requirements, or the risk of conflict with other activities being undertaken or proposed in the vicinity of the proposed site.

(3) The Chief Fisheries Officer may specify the species that may be cultured.

Lease.

42. (1) The Governor-General, on the advice of the Minister, may lease land including areas of the foreshore and sea-bed for purposes of aquaculture if he is satisfied after such enquiry as he may consider necessary that such lease will not substantially prejudice the rights of members of the public.

(2) The Minister shall seek the advice of the Minister responsible for Crown property and the Barbuda Council, where appropriate, before advising the Governor-General under subsection (1).

(3) The provisions of the Registered Land Act (Cap. 374) shall apply with any necessary amendments to the leasing of lands including foreshore and sea-bed for the purposes of aquaculture under this section.

(4) Subject to the provision of the Registered Land Act (Cap. 374) the Minister shall, by Notice in the Gazette, give particulars of any lease granted under subsection (1) giving the boundaries of the area leased and the Minister may restrict and control by regulations made under section 76 the use of such land including foreshore or sea-bed by members of the public.

43. There shall be payable in respect of every aquaculture licence such fees royalties or other charges as may be prescribed.

Fees.

44. (1) An aquaculture licence shall confer upon the licence holder an exclusive right to farm and harvest aquaculture products within the aquaculture facility defined in the licence.

Content of aquaculture licence.

(2) Where an aquaculture licence is issued for sea ranching or restocking purposes, it shall confer upon the licence holder a right to release the aquaculture products within the natural environment defined in the licence.

(3) The holder of a licence issued for sea ranching or restocking purposes shall, subject to the requirements of Parts III and V, have the right to a fishing licence for the specific species subject to such conditions as the Chief Fisheries Officer may attach to the fishing licence.

45. (1) No person other than the owner of the aquaculture licence may, within fourteen days of the break-out, capture fish that are no longer restricted to the aquaculture facility and that keep near to such facility.

Recapture of escaped fish.

(2) The Minister may limit the right to recapture escaped fish by prescribing—

- (a) that certain species of fish shall not be subject to the right to recapture;
- (b) that recapture shall be carried out using specific gear; and
- (c) limitations to the area where recapture may be carried out.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

46. (1) No person shall fish closer to a marine aquaculture cage, pen or site than 100 metres or pass closer to such cage, pen or site than 20 metres, and the Minister may prescribe limitations to fishing activities in the adjoining area.

Fishing and passage close to aquaculture farms.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

Cancellation or suspension of aquaculture licence.

47. (1) An aquaculture licence may be cancelled or suspended on any of the grounds set out in subsection (2).

(2) The grounds on which an aquaculture licence may be cancelled or suspended are that the Minister or the Chief Fisheries Officer is satisfied that—

- (a) the licence or lease holder has failed to comply with any condition of the licence and has failed to remedy such non-compliance within a reasonable period;
- (b) the licence holder has not commenced aquaculture activities within 12 months of the issue of the licence or within such longer period as may be stipulated in the licence;
- (c) cancellation or suspension is necessary to ensure the protection and conservation of the environment and the genetic diversity of the ecosystems;
- (d) the licence holder has failed to report the presence of any disease or infected organism or has failed to take all possible measures to prevent the spread of disease or of any infected organism as required under this Act; and
- (e) the licence holder has failed to treat or destroy any aquatic organism that is or may be diseased or that contains or may contain parasites as required under this Act.

Feed, drugs and disinfectants in aquaculture.

48. (1) The use of feed, drugs and disinfectants in aquaculture shall be subject to such general conditions as the Minister may prescribe and to such special conditions as the Chief Fisheries Officer may attach to the aquaculture licence.

(2) A person who uses feed, drugs or disinfectants in aquaculture in contravention of subsection (1) commits an offence and liable on summary conviction to a fine not exceeding \$100,000.

49. (1) A holder of an aquaculture licence shall immediately report to the Chief Fisheries Officer the presence of a disease or infected aquatic organism in an aquaculture facility.

Disease and infected organisms.

(2) The holder of an aquaculture licence shall immediately comply with any instructions or measures that may be communicated/directed to the licensee by the Chief Fisheries Officer following receipt of a report referred to in subsection (1).

(3) The holder of an aquaculture licence shall take all possible measures to prevent the spread of disease or of any infected organism in or from an aquaculture facility, including the destruction of aquatic organisms or aquaculture products and the disinfection of aquaculture facilities.

(4) "Infected", for the purposes of this section, shall mean that germs or other living organisms or factors have caused a transmutation to the organism's natural anatomy or physiology.

(5) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding \$100,000.

50. A person who without lawful excuse—

Prohibitions.

- (a) releases any diseased or infected organism from the aquaculture facility into the natural environment;
- (b) imports for the purpose of aquaculture any diseased or infected organism;
- (c) places for sale any aquatic organisms infected or thought to be infected with a disease or infected organism;
- (d) transfers from the aquaculture facility any aquatic organisms infected or thought to be infected with a disease or infected organism; or
- (e) uses in the aquaculture process any inputs, substances or production methods that may render aquaculture products unsuitable for human consumption,

commits an offence and is liable on summary conviction to a fine not exceeding \$150,000.00.

Sanctions.

51. A person who operates or causes or allows to be operated an aquaculture farm except under an aquaculture licence granted under this part and in accordance with the conditions of such licence commits an offence and is liable to be ordered by the court to rectify the harm caused to the aquatic environment, or to pay to the Government the cost of so doing, and to a fine not exceeding \$150,000.00.

PART VI

MARINE RESERVES AND CONSERVATION MEASURES

Fishing priority areas.

52. The Minister may, by notice published in the Gazette, declare an area of Antigua and Barbuda waters, to be a fishing priority area, where he considers that special measures are necessary to ensure that authorised fishing within the area, is not impeded or otherwise interfered with.

Marine reserves.

53. (1) The Minister may, by notice published in the Gazette, declare an area of Antigua and Barbuda waters, and as appropriate, any adjacent or surrounding land, to be a marine reserve where he considers that special measures are necessary—

- (a) to afford special protection to the flora and fauna of such areas;
- (b) to protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to *flora and fauna in danger of extinction*;
- (c) to allow for the natural regeneration of aquatic life in areas where such life has been depleted or threatened;
- (d) to promote scientific study and research in respect of such areas; *or*
- (e) to preserve and enhance the natural beauty of such areas.

(2) A person who, in a marine reserve, without permission granted under subsection (3)—

- (a) fishes or attempts to fish;
- (b) takes or destroys any flora or fauna other than fish;
- (c) dredges, extracts sand and gravel, discharges or deposits wastes or any other polluting matter, or in any other way disturbs, alters or destroys the natural environment; or
- (d) constructs or erects any buildings or other structures on or over any land or waters within such a reserve,

commits an offence and is liable on summary conviction to a fine not exceeding \$100,000.

(3) The Minister, or a person authorised by him in writing, may give written permission to do any of the things prohibited under this section where the doing of such things may be required for the proper management of the reserve or for any of the purposes referred to in subsection (1).

(4) Regulations made under section 76(2)(p) may establish a regulatory authority for marine reserves and may authorise the secondment of public officers to provide the staff of any such authority so established.

54. (1) The Minister may, on submission of a fisheries research plan, approved by the Chief Fisheries Officer, grant permission for a vessel or person to undertake research into fisheries in Antigua and Barbuda waters.

Fisheries
research.

(2) The Minister may attach such conditions as he considers fit to a permission granted under subsection (1).

(3) A person who undertakes fisheries research in Antigua and Barbuda waters—

- (a) without permission under subsection (1); or
- (b) in contravention of any conditions attached to the permission under subsection (2),

commits an offence and is liable on summary conviction to a fine not exceeding \$300,000.

(4) A permission or exemption granted under this section shall be in writing.

(5) The Minister may by Order exempt a vessel such as is referred to in subsection (1) from any of the provisions of this Act.

(6) An Order made under subsection (5) shall be subject to affirmative resolution of the House.

Introduction of
non-indigenous
fish.

55. (1) No person shall introduce any exotic or non-indigenous fish in Antigua and Barbuda waters or in the territory of Antigua and Barbuda without the written permission of the Chief Fisheries Officer.

(2) The Chief Fisheries Officer shall grant permission under subsection (1) only if he is satisfied that such introduction shall not alter or cause any harm to aquatic biodiversity, other fish and their habitats.

(3) A person introducing or attempting to introduce any exotic or non-indigenous fish in Antigua and Barbuda waters in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$200,000.

Import of live
aquatic organisms.

56. (1) No person shall import into Antigua and Barbuda any live aquatic organisms without written permission granted by the Chief Fisheries Officer.

(2) Subject to subsection (3) the Chief Fisheries Officer may grant a licence permitting the import into Antigua and Barbuda of any live aquatic organism, subject to such general conditions as may be prescribed and such special conditions as the Chief Fisheries Officer may attach to the permission.

(3) The Minister may prescribe that the import into Antigua and Barbuda of certain species of live aquatic organisms shall be prohibited.

(4) A person importing or attempting to import any live aquatic organism in contravention of this section commits an offence and is liable on summary conviction to a fine not exceeding \$200,000.

57. (1) A person who within Antigua and Barbuda waters engages or attempts to engage in any large driftnet fishing activities commits an offence and is liable on summary conviction to a fine not exceeding \$200,000.

Large driftnet
fishing.

(2) Where a foreign or local fishing vessel within Antigua and Barbuda waters engages or attempts to engage in any large driftnet fishing activities the master, owner or charterer, if any, of such vessel commits an offence and is liable on summary conviction to a fine not exceeding \$200,000.

(3) No foreign or local fishing vessel which engages in any large driftnet fishing activities shall be permitted to tranship, land or process any fish or have access to ports and port facilities in Antigua and Barbuda waters for the purpose of landing fish, refuelling or re-supplying.

(4) A master, owner or charterer of a fishing vessel in possession of large driftnets in Antigua and Barbuda waters commits an offence and is liable on summary conviction to a fine not exceeding \$100,000.

58. (1) A person who—

Prohibited fishing
methods.

- (a) permits to be used, uses or attempts to use any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or
- (b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceding paragraph,

commits an offence and is liable on summary conviction to a fine not exceeding \$200,000.

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

(3) A person who lands, places for sale, receives or is found in possession of any fish taken in contravention of subsection

(1)(a), knowing or having reasonable cause to suspect them to have been so taken, commits an offence and is liable on summary conviction to a fine not exceeding \$200,000.

(4) For the purpose of this section, a certificate signed by the Chief Fisheries Officer as to the cause and manner of death or injury of any fish shall be accepted as prima facie evidence in court without further proof of the signature of the person appearing to have signed the certificate, or his official character.

Possession of prohibited fishing gear.

59. A person who within Antigua and Barbuda waters uses for fishing or has on board a fishing vessel, in circumstances which indicate an intention to use for fishing in Antigua and Barbuda waters—

- (a) any net the mesh size of which is less than the prescribed minimum mesh size for that fishery; or any other type of fishing gear that does not conform to any standards prescribed for that type of gear; or
- (b) any other net or fishing gear which is prohibited by this Act, or any regulation made under this Act.

commits an offence and is liable on summary conviction to a fine not exceeding \$100,000.

PART VII

ENFORCEMENT

Prohibited conduct in fisheries.

60. (1) A person who without lawful excuse—

- (a) removes, hauls, takes away, empties, casts adrift or otherwise interferes with an aquaculture facility, fishing vessel, out-board motor, net, line, trap, gear, tackle or other fishing or aquaculture equipment belonging to some other person, without the consent of that person;
- (b) places an object in the water or promotes or undertakes any activities in a manner so as to obstruct a fishing operation or aquaculture activity lawfully being carried out by another person;

- (c) destroys, damages, displaces or alters the position of an aquaculture facility, fishing net, line, pot, trap, gear, tackle, or other fishing or aquaculture equipment, or a buoy, float or other marker attached to it, belonging to some other person without the consent of that person; or
- (d) removes fish from an aquaculture facility, fishing net, line, pot, trap, gear, tackle, or other fishing or aquaculture equipment belonging to some other person without the consent of that person,

commits an offence and is liable on summary conviction, to a fine not exceeding \$50,000.

61. The Minister may designate by notice published in the *Gazette* such persons as he considers fit, including members of the enforcement authority of any country or of any regional or sub-regional marine enforcement entity, to be authorised officers for the purposes of this Act.

Designation of authorised officers.

62. (1) For the purposes of enforcing this Act, an authorised officer may, without a warrant—

Powers of authorised officers.

- (a) stop and search a vehicle;
- (b) stop, board and search a foreign fishing vessel in Antigua and Barbuda waters and a local fishing vessel in or outside Antigua and Barbuda waters;
- (c) stop and board a local fishing vessel in or outside Antigua and Barbuda waters for the purpose of satisfying himself that—
 - (i) there is in existence a valid certificate of seaworthiness or survey in respect of that vessel;
 - (ii) the vessel and its equipment are being maintained in accordance with the prescribed standard; and
 - (iii) the vessel is fit for the purpose of fishing.
- (d) enter and search an aquaculture facility;

- (e) require to be produced, examine and take copies of a licence or other document required under this Act;
- (f) require to be produced and examine any fishing net or other fishing gear whether at sea or on land; and
- (g) for the purposes of section 56—
 - (i) inspect any live aquatic organisms before or after they are imported; and
 - (ii) seize, hold, quarantine, disinfect or destroy any live aquatic organisms that have been imported or are for import.

(2) An authorised officer, where he has reasonable grounds to suspect that an offence has been or is being committed, may, without a warrant—

- (a) enter and search any premises, including any aquaculture facility, other than premises used exclusively as a dwelling house, in which he has reason to suspect that an offence has been or is being committed under this Act or where he has reason to suspect that fish illegally taken are being stored;
- (b) take samples of any fish found in any vessel, vehicle or premises, including any aquaculture facility, searched under this section;
- (c) seize any vessel (together with its gear, stores and cargo), aquaculture facility (together with its stores and cargo), vehicle, fishing gear, net or other fishing appliance which he has reason to believe has been used in the commission of an offence under this Act or in respect of which the offence has been committed;
- (d) where he has reason to suspect that any fishing vessel or aquaculture facility has been used in the commission of such offence—
 - (i) seize any fish found on board that fishing vessel;

- (ii) seize any fish found in the aquaculture facility; and
- (iii) seize any explosive, poison or other noxious substance found on board that vessel;
- (e) seize any fish, explosive, poison or other noxious substance which he has reason to suspect is being possessed in contravention of this Act; and
- (f) arrest the master, owner, or charterer of a vessel seized where he has reason to suspect that the vessel has been used or is being used in the commission of an offence under this Act, and any other person whom he has reason to suspect has committed an offence under this Act.

(3) A vessel seized under subsection (2) and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceedings under this Act or its release on bond or other security in accordance with the provisions of section 68.

(4) Where following the commission of an offence under this Act by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of Antigua and Barbuda waters, the powers conferred on authorised officers under this section shall be exercisable beyond the limits of Antigua and Barbuda waters, in the circumstances and to the extent recognised by International Law.

(5) An authorised officer in exercising any of the powers conferred on him by this section shall on request produce such means of identification as may be necessary to show that he is an authorised officer for the purposes of this Act.

63. To ensure the safety and quality of fish and fishery products the authorised officer shall, in addition to all the powers conferred upon an authorised officer under section 62, have power—

Additional powers
of authorised officers.

- (a) without a warrant, to enter, inspect, search and check, any fish processing establishment, fishing vessel, ice plant, vehicle, aircraft, laboratory, landing site or

fish market in order to ensure compliance with this Act, or in which the authorised officer has reasonable grounds to believe that evidence of an offence under this Act may be found and—

- (i) to take samples (without payment) of any fish or fishery product found and carry out or have carried out such examinations, tests and checks and analyses as the authorised officer considers necessary; and
 - (ii) to seize and dispose of any fish or fishery product that is unfit for human consumption, diseased or otherwise contaminated;
- (b) to require the owner or manager of any fish processing establishment, ice plant, or laboratory approved or licensed under this Act to furnish such information and produce such records and other documents as may reasonably be required for the carrying out of the authorised officer's functions under this Act;
- (c) to stop any activities whereby fish and fishery products intended for human consumption are placed for sale, processed, prepared, frozen, packaged, transported, landed, stored, exported or imported in contravention of relevant requirements under this Act or other legislation relating to the quality and safety of fish and fishery products intended for human consumption; and
- (d) to suspend any licence or approval issued to a fish processing establishment, ice plant or laboratory in case of shortcomings of significance in relation to the requirements under this Act concerning the safety and quality of fish and fishery products until such shortcomings have been rectified.

(2) An authorised officer shall also have power—

- (a) to ensure compliance with the requirements under this Act concerning the safety and quality of fish and fishery products;

- (b) to report in writing on all shortcomings of significance discovered in the carrying out of the authorised officer's functions to the Chief Fisheries Officer and, where the shortcomings relate to a fish processing establishment, ice plant, laboratory or fishing vessel to the owner or to the manager or skipper with a copy to the owner;
- (c) to provide guidance and assistance to fish processing establishments on the development of quality control programs fulfilling the requirement under this Act; and
- (d) to provide guidance and assistance to the fishing industry regarding the handling of fish and fishery products in accordance with this Act;

64. (1) Any fish or other articles of a perishable nature seized under this Act may, at the direction of the Chief Fisheries Officer, be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

Sale of perishable goods seized.

(2) Where, after making all reasonable efforts, the Chief Fisheries Officer is unable to sell the fish or other articles referred to in subsection (1) he may dispose of them in such manner as he thinks fit.

65. No action shall be brought against an authorised officer in respect of anything done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

Immunity of authorised officers.

66. A person who obstructs, assaults or threatens an authorised officer in the exercise of the powers and duties conferred on him under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for 5 years, or to both.

Assaulting or obstructing authorised officers.

67. (1) Where an offence against this Act has been committed by a person on board or employed on a fishing vessel, the master of such vessel shall also be liable to be convicted of the offence.

Liability for offences.

(2) Where an offence against this Act has been committed by a person working in or employed by a fish processing establish-

ment, the person responsible for the day to day operation of such fish processing establishment shall also be liable to be convicted of the offence.

(3) Where an offence against this Act has been committed by a person working in or employed by a firm or agency transporting fish or fishery products, the person responsible for the day to day operation of such firm or agency shall also be liable to be convicted of the offence.

(4) Where a body corporate is guilty of an offence under this Act, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate, or
- (b) any person who was purporting to act in such capacity,

he, as well as the body corporate, commits the offence and is liable to be proceeded against and punished accordingly.

(5) For the purposes of paragraph (4) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Release of vessel
etc. on bond.

68. The court may, on application, order the release of any fishing vessel (together with its gear, stores and cargo), aquaculture facility (together with its stores and cargo), vehicle, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other form of security from the owner or other person claiming such property.

Court's power of
forfeiture.

69. Where a person is convicted of an offence against this Act, the court, in addition to any other penalty imposed—

- (a) may order that any fishing vessel (together with its gear, stores and cargo), aquaculture facility (together with its stores and cargo), vehicle, fishing gear, net or other fishing appliance, used in the commission of the offence shall be forfeited;

- (b) shall order that where any fishing vessel has been used in the commission of such offence any fish found on board that fishing vessel or the proceeds of sale of such fish, and any explosive, poison or other noxious substance found on board such vessel shall be forfeited; and
- (c) may order that where an aquaculture facility has been used in the commission of such offence any fish found in that aquaculture facility or the proceeds of sale of such fish shall be forfeited.

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

Presumptions.

(2) Where in any legal proceedings instituted under this Act following the seizure of a foreign fishing vessel by an enforcement vessel, the place in which an event is alleged to have taken place is in issue, the place stated in a certified copy of the relevant entry into the logbook or other official record of the enforcement vessel as being the place in which the event took place shall be presumed until the contrary is proved, to be the place in which such event took place.

71. In any legal proceedings under this Act where the defendant is charged with having committed an offence under which a licence, authority or the permission of any person is required for the doing of any act, the burden shall be on the defendant to prove that at the time to which the charge relates, the requisite licence, authority or permission was duly held.

Onus of proof.

72. A vessel (together with its gear, stores and cargo), aquaculture facility (together with its stores and cargo), vehicle, fishing gear, net or other fishing appliance, explosives, poison or other noxious substance ordered to be forfeited under this Act shall be disposed of in such manner as the Minister may direct.

Disposal of vessels etc. forfeited.

73. An offence against any of the provisions of this Act or any regulations made under this Act committed within Antigua and Barbuda waters by a person, or any such offence committed outside such waters by a citizen of or person ordinarily resident in Antigua and Barbuda or by a person on board a local fishing

Offences triable as if committed within limits of local jurisdiction.

vessel, shall be triable in any court in Antigua and Barbuda as if such offence had been committed in Antigua and Barbuda, within the limits of the jurisdiction of such court.

Minister's power to compound offences.

74. (1) Subject to subsection (4), the Minister may, where he is satisfied that a person has committed an offence against this Act or regulations made under this Act, compound such offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence.

(2) On compounding an offence under this section the Minister may forfeit any article seized under sections 62 or 63 or the proceeds of sale of such article under section 64 or order the release of such article on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

(3) No offence shall be compounded under this section unless the person who has committed the offence has expressed his willingness in a prescribed form that the offence shall be so dealt with.

(4) The compounding of an offence under this section shall be notified in writing under the signature of both parties to the appropriate Magistrate's court.

(5) In any proceedings brought against a person for an offence against this Act, it shall be a defence if such person proves that the offence with which he is charged has been compounded under this section.

(6) This section does not apply to an offence against section 58 or section 66 of this Act.

PART VIII

GENERAL

Record of licences, permits and authorisations.

75. (1) The Chief Fisheries Officer shall keep or cause to be kept a record showing any licence, permit or authorisation issued under this Act.

(2) A suspension, cancellation, expiry or transfer of a licence, permit or authorisation issued under this Act shall be recorded in the record referred to in subsection (1).

(3) The record kept under subsection (1) shall be used only for the purposes of this act and otherwise as the Minister may prescribe.

(4) Subject to subsection (3) the Minister may prescribe how information kept in the record shall be stored, used and disseminated.

76. (1) The Minister may make regulations generally for the management and development of fisheries in Antigua and Barbuda waters and in the territory of Antigua and Barbuda and for the purpose of carrying this Act into effect and, in particular, but without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Act by regulations.

Regulations.

(2) In particular without limiting the generality of subsection (1) the Minister may make regulations—

- (a) providing for the licensing, regulation, conservation and management of any particular fishery;
- (b) prescribing fisheries management and conservation measures including minimum mesh sizes, gear standards, minimum species sizes, closed seasons, closed areas, prohibited methods or fishing gear of fishing, schemes for limiting entry into all or any specified fisheries, and schemes for limiting fishing effort in all or any fisheries;
- (c) prescribing the constitution, functions and duties of the Fisheries Advisory Committee appointed under section 7;
- (d) regulating the catching and utilisation of fish taken incidentally when fishing for a species for which a licence has been issued;
- (e) providing for the registration and licensing of fishers, fishing gear and other fishing appliances;
- (f) organising and regulating sports fishing in Antigua and Barbuda waters;

- (g) regulating the landing, marketing and distribution of fish;
- (h) regulating the transiting of foreign fishing vessels through Antigua and Barbuda waters, including the manner in which fishing gear is to be stowed;
- (i) making provision for rewards to be paid to a person providing information on the operations of foreign fishing vessels leading to a conviction or compounding of offence under this Act;
- (j) prescribing the form of foreign fishing licences which may take the form of a written licence or a telexed or cabled authorisation;
- (l) providing for the implementation of an agreement entered into under section 8;
- (m) regulating or prohibiting the entry into a fishing priority area, established under section 52, of any class of vessel and prescribing any activities which may not be undertaken in that area;
- (n) providing for the licensing and control of fish aggregating devices and for the rights to fish aggregated by such devices;
- (p) regulating—
 - (i) the management and protection of marine reserves and fishing priority areas;
 - (ii) the taking of coral and shells;
 - (iii) the taking of marine flora;
 - (iv) the setting of fishing fences;
 - (v) the taking of aquarium fish;
 - (vi) aquaculture activities and development; and
 - (vii) fishing in any inland waters.

- (q) prescribing measures for the protection of turtles, lobster and conch;
- (r) to provide for the control or prohibition of the import and export of fish;
- (s) providing for the control and deployment of artificial reefs;
- (t) to ensure the quality and safety of fish and fishery products to be sold or offered for sale in, imported to or exported from Antigua and Barbuda;
- (u) prescribing the establishment and maintenance of records regarding all aspects of the handling of fish and fishery products, including provisions governing the storage, use and dissemination of the information;
- (v) requiring the recording and timely reporting of fishery data and vessel data and information;
- (w) providing for monitoring, control and surveillance including reporting requirements and the application and use of vessel monitoring systems;
- (x) prescribing requirements in relation to the display on any fishing gear of identification marks or information; and
- (y) prescribing any other matter which is required or authorised to be prescribed.

(3) Regulations under this Act may—

- (a) make different provision in relation to different cases or circumstances;
- (b) apply in respect of particular persons or particular cases or particular classes of persons or particular classes of cases, and define a class by reference to any circumstances whatsoever; or
- (c) contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

ANTIGUA 46
AND
BARBUDA

The Fisheries Act, 2006.

No. 22 of 2006.

(4) Regulations made under this Act may create an offence punishable on summary conviction by a fine not exceeding \$50,000.

Repeal of legisla-
tion.

77. The Fisheries Act, (Cap. 173) and the Importation of Live Fish Act, (Cap. 209), are repealed.

Passed by the House of Representatives this
6th day of November, 2006.

Passed by the Senate this 17th
day of November, 2006.

D. Giselle Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

Yvonne Henry,
Clerk to the House of Representatives.

Yvonne Henry,
Clerk to the Senate.

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