



An Act to Amend The Fisheries, Resources (Jurisdiction and Conservation) Act, 1977.

ENACTED by the Parliament of The Bahamas.

1. This Act, which amends the Fisheries Resources (Jurisdiction and Conservation) Act, 1977 may be cited as the Fisheries Resources (Jurisdiction and Conservation) (Amendment) Act, 1985 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Short title and commencement.
Act No. 13 of 1977.

2. The principal Act is hereby amended by inserting after section 10 the following new section —

Insertion of new section 10A in the principal Act.

*Regulation of Bahamian fishing vessels to fish for fishery resources for commercial purposes.

10A.—(1) No person shall use a Bahamian fishing vessel to fish for any fishery resource for commercial purposes within the exclusive fishery zone, unless, there is in force in relation to such vessel, a valid permit in that behalf granted by the Minister in the prescribed manner, authorising the vessel to be so used.

(2) Subsection (1) shall not apply to a Bahamian fishing vessel which is 20 feet or less in length:

Provided that the Minister may by notice published in the Gazette apply subsection (1) to all Bahamian fishing vessels.

(3) Upon the Minister being satisfied that an applicant for a permit mentioned in subsection (1) is —

- (a) a Bahamian; and
- (b) the owner of the fishing vessel in respect of which the application has been made,

the Minister shall, upon payment of the prescribed fee grant to the applicant in the prescribed form a permit which shall expire on the 31st December of the year of issue.

(4) If any Bahamian fishing vessel is used in contravention of subsection (1) —

- (a) the person using the vessel, the owner and also the master or other person in charge of the vessel shall each be guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year or to both;
- (b) the vessel so used shall be liable to forfeiture whether by the court upon such conviction or on acquittal or otherwise by any court in proceedings taken for its condemnation.

(5) For the purposes of this section it shall be prima facie evidence that a fishing vessel was being used to fish for fishery resource for commercial purposes if it is shown that at the time the vessel was inspected to determine whether an offence under this Act was committed that there was on board such fishery resource in a quantity of not less than two hundred and fifty pounds in weight.”.

Amendment of
section 15 of the
principal Act.

3. Section 15 of the principal Act is hereby amended by the insertion immediately after subsection (4) of the following subsections —

“(5) The owner of a vessel detained under subsection (1) and in relation to which proceedings have been instituted as aforesaid or of any vessel removed or detained by reason of a breach of any Regulations made under this Act or for non-payment of any sum due to the Government in accordance with any agreement shall notwithstanding anything to the contrary in this section be liable to reimburse the Government the reasonable expenses as, at the date of any claim therefor, may have been incurred by the Government in the

upkeep, maintenance and removal of the vessel as the case may be and until such reimbursement the Government may subject to subsection (8) refuse to release the vessel detained.

(6) After a demand in writing for payment of such expenses has been made upon the owner or master or other person in charge of the vessel at the time of its seizure or removal, or, in the absence of their identity or whereabouts, notice of demand having been affixed on a conspicuous place of the vessel and a copy thereof published in the Gazette, proceedings may be instituted in a court of summary jurisdiction for the recovery of such expenses irrespective of the amount as a debt due and payable to the Government.

(7) Any document to be filed in the court and served upon the owner or master of the vessel in respect of proceedings referred to in subsection (6) shall be deemed to have been duly filed and served for the purpose of any law if such document is addressed to the owner or master by name, or, if it is not practicable after reasonable inquiry to ascertain the name and address of the owner or master to or on whom it should be served, it is addressed by description of "owner" of the vessel (naming it) to which it relates and by affixing it to some conspicuous part of the vessel.

(8) The provisions of subsections (3) and (4) as they apply in relation to the manner of the recovery of a fine and the disposal of proceeds of a sale mentioned in those subsections, shall, mutatis mutandis, apply in relation to the recovery of any sum awarded to the Government pursuant to proceedings referred to in subsection (6) or in respect of expenses incurred by the Government in relation to a vessel by reason of a breach of this Act; save that where any notice is required to be served as mentioned in subsection (3) the same if necessary may be served in the manner provided in subsection (7)."

4. Subsection (1) of section 18 of the principal Act is hereby amended in the following respects —

Amendment of
section 18 of the
principal Act.

- (a) by the re-lettering of paragraphs (p), (q) and (r) as paragraphs (x), (y) and (z) respectively; and
- (b) by the insertion as paragraphs (p) to (w) of the following paragraphs —

"(p) for the control, management and regulation of any undertaking established by the Government for the marketing and distribution to the public of any fishery resource and including the premises wherever such undertaking is conducted and the waters adjacent thereto;

- (q) for the provision and rendering by any undertaking carried on by the Government of services in or incidental to the marketing, storage, and distribution of fishery resource upon payment of such fees and subject to such terms as are prescribed or as the Minister sees fit;
- (r) providing for the manner of and the measures that may be taken for securing the enforcement of the payment and recovery of fees payable to the Government for services rendered by any undertaking established for the marketing of fishery resource;
- (s) providing for the examination, seizure and disposal of any fishery resource which in the opinion of the fisheries inspector was obtained or was involved in any transaction in breach of any Regulations made under this Act or which is in such a state as to be injurious to health;
- (t) providing for the inspection of premises by a fisheries inspector who has reasonable cause to believe that such premises are being used in contravention of any Regulations made under this Act;
- (u) providing for the keeping of records by any person holding a licence or permit under this Act and the inspection and taking of copies thereof by any fisheries inspector for the purposes of determining whether or not any offence has been committed;
- (v) providing for the constitution of offences and the imposition of penalties therefor by reason of the breach of any Regulations made under this Act and for measures affecting the burden of proof of such offences or offences under this Act;
- (w) providing for the seizure and removal of any vessel from the premises of any undertaking to which paragraph (p) applies and the recovery by the Government of any expenses for so doing."

Amendment of
section 19 of the
Principal Act.

5. Section 19 of the principal Act is hereby amended in the following respects —

- (a) by the repeal of subsection (1) and the substitution therefor of the following subsection —

"(1) Subject to subsection (3) where any fishing vessel engages in foreign fishing in the exclusive fishery zone for any fishery resource —

(a) the owner and also the master or other person in charge of the vessel and every person who so uses it shall be guilty of an offence and liable on summary conviction, subject to the provisions of section 21, to a fine of fifty thousand dollars or to imprisonment for a term of one year or to both;

(b) the vessel used in such fishing shall be liable to forfeiture whether by the court upon such conviction or on acquittal or otherwise by any court in proceedings taken for its condemnation.";

(b) by the insertion, immediately after the word "vessel" appearing at the end of subsection (2) of the words "and where the fishery resource is the result of anything done in contravention of the provisions of this Act, it shall be seized and be liable to forfeiture"; and

(c) by the deletion of subsection (3) and by the substitution therefor of the following —

"(3) Nothing in subsection (1) shall apply to any vessel which engages in foreign fishing in the exclusive fishery zone for any fishery resource having been so authorized under section 7(a), (b) or (c) or for sporting purposes in accordance with section 7(d)".

6. Subsection (1) of section 20 of the principal Act is hereby amended by the insertion immediately after the words "otherwise than" of the words "as prescribed or".

*Amendment of
section 20 of the
principal Act.*

7. Section 23 of the principal Act is hereby amended in the following respects —

*Amendment of
section 23 of the
principal Act.*

(a) by deleting the words "eight hundred dollars or to imprisonment for a term of six months or to both" and substituting therefor the words "five thousand dollars or to imprisonment for a term of one year or to both"; and

(b) by re-numbering the section as subsection (1) and inserting immediately thereafter the following subsection —

"(2) The fact that any act or omission constitutes an offence both under subsection (1) and a regulation made under this Act shall not render that regulation invalid and proceedings for that offence may be instituted under that subsection or regulation but so that no person shall be punished twice in respect of the same offence."

Amendment of
First Schedule to
the principal
Act.

8. The First Schedule to the principal Act is hereby amended by the deletion in paragraph 5 of the words "the thing in question shall be deemed to have been duly condemned as forfeited" and by the substitution therefor of the words "the provisions of paragraph 6 in relation to the taking of proceedings and the powers of the Court shall apply without any requirement, unless the Court otherwise directs, for notice thereof to be given to any person mentioned in paragraph 1."