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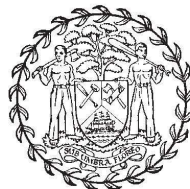
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SCHEDULE



No. 7 of 2020

I assent,

(SIR COLVILLE N. YOUNG)
Governor-General

30th January, 2020

ANACT to make provisions in accordance with international best practices for the management of aquatic and fisheries resources of Belize with an aim to optimize present and future benefits through long-term conservation, management, sustainable use and development within the fisheries waters of Belize; to provide for the effective regulation of the fishing industry; to provide for the management and regulation of mariculture; to repeal the Fisheries Act, Chapter 210 of the Laws of Belize, Revised Edition 2011; and to provide for matters connected therewith or incidental thereto.

(Gazetted 1st February, 2020).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows-

PART I

Preliminary

Short title.

1. This Act may be cited as the

FISHERIES RESOURCES ACT, 2020.

Interpretation.

2.—In this Act –

“alien species” means a species, subspecies or lower taxon, introduced to Belize, which is outside its natural past or present distribution, and includes any part, gametes, seeds, eggs, or propagules of the species, subspecies or lower taxon that might survive and subsequently reproduce;

“bio-prospecting” means the research, collection and utilization of biological and genetic resources for purposes of applying the knowledge derived therefrom primarily for a commercial purpose;

“closed season” means a period of time during which fishing is prohibited;

“commercial fishing” means the taking, breeding, producing, killing or capturing of any fish by any means whatever or the attempt or preparation to do so, for the purpose of the sale, or other disposition of the fish for money or money’s worth;

“Council” means the Fisheries Council established by section 8;

“critical habitats” means specific areas within the fisheries waters that are essential for the conservation of fishery resources, which may require special management consideration or protection;

“Department” means the Belize Fisheries Department;

“exclusive economic zone” has the same meaning as under the Maritime Areas Act; CAP. 11.

“fish” means the whole or any part, and the offspring and its eggs, of any aquatic animal, whether piscine or not, and includes aquatic flora, but is not limited to—

- (a) crustaceans, echinoderms, and mollusks;
- (b) parts of crustaceans, echinoderms, and mollusks;
- (c) the egg, fry, spot, larvae, sperm and juvenile stages of fish crustaceans, echinoderm, or mollusks;
- (d) the shell or exoskeleton, or part of the shell or exoskeleton of a crustacean, echinoderm, or mollusk;
- (e) the dead body or part of the dead body of a fish;
- (f) all species of coral or aquatic flora;
- (g) all species of marine mammals; or
- (h) all species of turtles.

“fish dealer” refers to a person who transports, collects or stores any fish and includes an establishment, fish buyer or fish vendor;

“Fish Stocks Agreement” means the Agreement for the Implementation of United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted at New York on 4 August 1995;

“Fisheries Administrator” means the person appointed under section 4(2);

“Fisheries Officer” means the Fisheries Administrator and any other officer appointed under section 5;

“fisheries waters” means the waters of the exclusive economic zone, territorial sea and internal waters as defined in section 2 of the Maritime Areas Act, and all inland waters of Belize, and such other waters in respect of which Belize exercises jurisdiction;

“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;

“fishery area” means an area in the fisheries waters designated for fishing or fisheries related activities;

“fishery management plan” means a management plan prepared for fisheries in accordance with section 10;

“Fishery Resources” means living organisms in the fisheries waters of Belize, including any aquatic flora or fauna;

“fishing” means catching or taking or killing fish by any method and includes—

- (a) searching for fish;
- (b) the attempted searching for or catching or taking of fish;
- (c) engaging in any other activity that can reasonably be expected to result in the taking of fish;
- (d) bio-prospecting;
- (e) the use of an aircraft or other conveyance in relation to any activity described in paragraphs (a) to (d);
- (f) transshipping fish to or from any vessel, whether or not for the purpose of sale or barter; storing, processing or transporting of the fish;
- (g) refueling or supplying fishing vessels or performing other activities in support of fishing operations;
- (h) the use of an aircraft or a conveyance in relation to any activity described in paragraphs (a) to (g); or

- (i) attempting or preparing to do any activity described in paragraphs (a) to (h),

but does not include the taking of fish from a mariculture facility;

“fishing gear” means any equipment, implement or other object that can be used for fishing, including any fishing net, rope, spearfishing apparatus (poles spears, hand spears, kill spike, spearfishing mask, Hawaiian sling, elastic, pneumatic powered, or mechanically power spear guns or sling) line, float, trap, hooks, winch, boat, beacon or locating device;

“fishing vessel” means any boat or craft used, outfitted, or designed for the purpose of fishing, processing or transporting fish;

“foreign fishing vessel licence” means a licence issued in respect of a foreign fishing vessel under section 28;

“foreign fishing vessel” means any fishing vessel, other than a local fishing vessel used or intended to be used for fishing in the fisheries waters;

“functions” includes powers or duties;

“illegal, unreported and unregulated fishing” has the same meaning as under the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted at Food and Agriculture Organization of the United Nations, Rome in June 2001;

“inland waters” means permanent water bodies on the mainland and includes rivers, streams, watercourses, lakes, lagoons, reservoirs, floodplains, wetlands, and inland saline systems;

“international conservation and management measures” means measures to conserve or manage one or more species or habitats of living marine resources that are adopted and applied in accordance with the relevant rules of international law reflected in UNCLOS, the Food and Agriculture Organization Compliance Agreement and the Fish Stocks Agreement either by global, regional or sub-regional organizations, or by treaties, or arrangements to which Belize is a Party or is a cooperating non contracting party;

“length overall” in relations to a fishing vessel means the distance in a straight line parallel to the design waterline, between the foremost point of the bow to the aftermost point of the stern;

“length” in respect of a foreign fishing vessel means –

- (a) for any fishing vessel built after 18 July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and
- (b) for any fishing vessel built on or before 18 July 1982, registered length as entered on the vessel's documentation;

“local fishing vessel” means any fishing vessel which is –

- (a) wholly owned by a Ministry, department or of the Government or by a public corporation established by or under the laws of Belize;
- (b) wholly owned by one or more natural persons who are citizens of Belize; or
- (c) wholly owned by a fishers' co-operative society, fishers' association or other such society or association of persons established or incorporated under the laws of Belize;

“managed access” means Belize's fisheries management tool that establishes secure fishing tenure for fishing areas, often also called Territorial Use Rights for Fishing (TURFs). Managed access allocates secure licenses to fish in a specified zone, called a managed access area (fishing area).

“management plan” means the plan for the management and development of an area or areas or a fishery;

“mariculture” means any activity designed to cultivate or farm fish and other living aquatic resources, and includes the cultivation, propagation or farming of aquatic organisms from eggs, spawn, spat or seed, or by rearing fish or aquatic plants lawfully taken from the wild or lawfully imported into Belize, or by other similar process within the fisheries waters of Belize, but does not include shrimp farming or any business activity related thereto;

“mariculture facility” means any infrastructure associated with mariculture whether located in the fisheries waters or land based;

“mariculture products” means the aquatic organisms or part thereof, whether alive or dead, which are being, or have been farmed in a mariculture facility in Belize, including mariculture organisms or part thereof;

“marine reserves or inland water reserves” means a reserve declared under section 14 of this Act;

“master” means the person or persons having control of a fishing vessel at any given time;

“Minister” means the Minister responsible for fisheries, and Ministry shall be construed accordingly;

“mobile transceiver unit” or “MTU” means a device placed on a vessel that transmits either in conjunction with another device or devices or independently, information concerning the position, fishing and such other activities of the vessel as may be required;

“non-commercial fishing” means fishing without the intention of sale or barter and includes, fishing for personal use, without the intention of selling the fish and fishing for the direct consumption of the families and kin of the fishers;

“observer” means a person designated as such under section 55;

“operator” means a person who is in charge of or directs or controls a fishing vessel, or for whose direct economic or financial benefit a vessel is being used, including the master, owner and charterer;

“owner” in relation to a fishing vessel means a person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his own behalf or on behalf of another and includes a person who is the owner jointly with any other person or persons and any manager, director or secretary of any body corporate;

“Ports Commissioner” has the same meaning as the Harbours and Merchant Shipping Act;

CAP. 234.

“research” or “scientific research” means the research, collection and utilization of biological and genetic data and information for purposes of applying the knowledge derived therefrom primarily for a commercial purpose;

“test-fishing operations” means any fishing operations undertaken over a defined period of time for the purpose of testing the feasibility of commercial fishing operations;

“transshipment” means the unloading of all or any of the fish on board a fishing vessel to any vessel either at sea or in any port; and

“UNCLOS” means the United Nations Convention on the Law of the Sea.

Application of
the Act.

3. This Act, unless the contrary intention appears, applies to all—

- (a) fisheries waters and areas over which Belize exercises sovereign rights or jurisdiction;
- (b) fishing, utilization of fish and genetic material derived from them and any other activity or matter falling within the scope of this Act;
- (c) persons, vessels, vehicles, aircraft, export facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this Act;
- (d) a person and a vessel, including a foreign fishing vessel, in and in relation to, the fisheries waters; and
- (e) all local fishing vessels and all persons on them or dealing with or having any relevant relationship to them or persons on them, in relation to any areas within or beyond national jurisdiction in so far as it is not in conflict with the territorial jurisdiction of another State.

Fisheries
Department

4.—(1) The Department created under the Ministry shall be the department established for the administration of this Act and regulations made under this Act.

CAP. 4.

(2) The Department shall be headed by a public officer to be known as the Fisheries Administrator who shall be appointed by the Public Services Commission in accordance with section 106 of the Constitution.

(3) The public officer employed as the Fisheries Administrator immediately before the commencement of this Act shall be deemed to have been appointed under this section.

(4) It shall be the responsibility of the Department to monitor the implementation of this Act and the regulations made hereunder and to take necessary action to enforce its provisions.

Appointment of
officers.

5.—(1) The Fisheries Administrator, and all Senior Fisheries Officers, Fisheries Officers, Assistant Fisheries Officers, Officers of the Conservation Compliance Unit, Officers of the Marine Reserves shall be Fisheries Officers for the purpose of carrying into effect the provisions of this Act or any regulations made under this Act.

(2) The Minister, acting on the recommendation of the Fisheries Administrator, may designate any public officer a Fisheries Officer either by name or by office, for the purpose of carrying into effect the provisions of this Act.

(3) The Minister, acting on the recommendation of the Fisheries Administrator, by Order published in the *Gazette*, may appoint any member of a management committee of a local fishing cooperative, a duly elected member of a city, town or village council or any employee of a locally registered non-governmental organization with which the Minister has entered into a co-management agreement under this Act, to be a Fisheries Officer for the purposes of this Act.

(4) An appointment made under sub-section (3) shall be valid for the period of time as stated in the Order.

(5) A person appointed as a Fisheries Officer shall be issued an identification card by the Fisheries Administrator.

(6) Every customs officer, member of the National Coast Guard Service and police officer is deemed to be a Fisheries Officer for the purposes of this Act.

(7) All Fisheries Officers and observers, other than police officers and customs officers and members of the National Coast Guard Service, shall be in possession of their identification card issued under sub-section (5) as evidence of their authority when acting in pursuance of this Act.

PART II

Objectives and Principles

6. The primary object of this Act is to promote long-term conservation, management, and sustainable use of the fisheries resources of Belize.

Objective of long-term sustainable use.

7.—(1) Every person, when performing functions under this Act, shall apply—

Principles and measures.

(a) the following principles and measures—

(i) conservation and management of fishery resources shall be conducted in a transparent, accountable and inclusive manner using best practices;

- (ii) fishing shall be commensurate with the sustainable use of fishery resources taking into account the impacts on non-targeted and associated or dependent species and the general obligation to protect and preserve the marine and freshwater environment;
 - (iii) measures and management decisions shall be based on the best information available and designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, or any other approved reference points, as qualified by relevant environmental, social and economic factors, and taking into account fishing patterns, the interdependence of stocks and species interaction;
 - (iv) inter-sectoral participation and broadening of stakeholder participation
 - (v) overfishing and excess fishing capacity shall be prevented or eliminated;
 - (vi) data on fisheries, including information relating to the ecosystems, social and economic systems in which fisheries occur, shall be collected, verified, reported and shared in a timely and appropriate manner;
 - (vii) effective enforcement of, and compliance with, conservation and management measures shall be pursued to protect biodiversity;
 - (viii) pollution and waste originating from fisheries operations, discards, by-catch, lost or abandoned gear and impacts on other species and marine ecosystems shall be minimized or eliminated where possible;
 - (ix) the welfare and livelihood of fishers and the fishing community shall be improved; and
- (b) the precautionary approach and an ecosystem approach in accordance with sub-sections (2) and (3).

(2) The precautionary approach shall be applied widely to the conservation and management of fishery resources in order to protect the resources and to preserve the aquatic ecosystems in which they exist, and in particular, in the application of this Act, every person shall—

- (a) be cautious when information is uncertain, unreliable, or inadequate;

- (b) not use the absence of adequate scientific information as a reason for postponing or failing to take conservation and management measures;
- (c) take account of best practices regarding the application of the precautionary approach, including Annex II of the Fish Stocks Agreement; and
- (d) take into account livelihoods and users of fisheries resources.

(3) An ecosystem approach shall be applied widely to the conservation and management of aquatic resources.

PART III

Fisheries Council

8.-(1) There is established an advisory body to be known as the Fisheries Council which shall advise and make recommendations to the Minister on—

Fisheries
Council.

- (a) matters relating to the conservation, management, use and development of fisheries;
- (b) the development and implementation of comprehensive fisheries policies;
- (c) the monitoring and review including the evaluation, of conservation guidelines and ecosystem-based management measures;
- (d) consideration and review of fisheries management plans;
- (e) coordination of fisheries policies with government departments and agencies including joint venture agreements and investments in the fisheries sector;
- (f) matters requiring coordination and cooperation; and
- (g) any other fisheries matter at the request of the Minister or as required under this Act.

(2) The Council shall be comprised of the following members appointed by the Minister—

- (a) the Chief Executive Officer of the Ministry responsible for fisheries who shall be the Chair;
- (b) the Chief Executive Officer of the Coastal Zone Management Authority and Institute or his designate;
- (c) the Chief Environmental Officer or his designate;
- (d) the Senior Economist of the Ministry responsible for economic development or his designate;
- (e) the Chief Tourism Officer of the Ministry responsible for tourism or his designate;
- (f) two members selected from among the largest producing and registered fishing cooperatives;
- (g) two members selected from among the registered fishermen organizations;
- (h) one member representing a non-governmental organization with an interest in the conservation and sustainable utilization of fisheries resources, the corporate headquarters of which is in Belize;
- (i) a person with expertise in fisheries science;
- (j) the Fisheries Administrator (*ex-officio* member).

(3) The Minister shall publish by Notice in the *Gazette*, the names of members and any changes in membership and composition of the Council as constituted under sub-section (2).

(4) The Council may co-opt a person as the Council thinks fit by reason of any particular knowledge or skill, to assist the Council for a specific purpose, and the person co-opted shall not be entitled to vote on any question before the Council.

(5) The quorum for a meeting of the Council shall be at least half of its members plus one, other than the Fisheries Administrator, who shall be present for the duration of the meeting.

(6) Except for the determination of the quorum, the Council may regulate its own proceedings.

(7) A person appointed under sub-section (2) (f), (g)(h) or (i) may be removed by the Minister from being a member of the Council—

- (a) where he has engaged in misconduct in office;

- (b) where he has been absent without reasonable excuse from three consecutive meetings;
- (c) where he is deemed unfit to be a member whether by reason of infirmity of body or mind.

(8) A member of the Council shall disclose a conflict of interest in any matter that comes before the Council for deliberations and shall recuse himself from deliberations of the Council in respect of that matter in which that member has an interest.

PART IV

Fisheries Conservation, Management and Development

9. The Minister may, in consultation with the Council, determine the total allowable catch or total allowable level of fishing in any fishery in the fisheries waters of Belize by Notice in the *Gazette*.

Determination of total allowable level of fishing.

10.—(1) The Minister, in consultation, with the Council, may determine whether there is a requirement for a management plan or management plans in respect of each fishery or category of fishery.

Fisheries management plans.

(2) The Fisheries Administrator shall prepare and keep under review a management plan or plans in respect of each fishery or category of fisheries as determined by the Minister under sub-section (1).

(3) A fisheries management plan shall—

- (a) identify and address trends in the biological, economic and social characteristics of the fishery, including issues requiring special attention;
- (b) identify the target and other fish stocks, and management objectives for each fishery;
- (c) address the proposed conservation, management and development measures to be applied to the fishery with due regard to the performance of historical measures;
- (d) determine the fishery or amount of the fishery resources to be made available to licence holders managed under a managed access fishing rights system or to which co-management under section 14 may apply;

- (e) specify the research, information and other data required to be given or reported for the enhanced, effective management and development of the fisheries;
- (f) take into account any users of fishing areas, fishing methods and principles;
- (g) describe the processes and indicators for management and measuring management performance;
- (h) make provision in relation to any other matter necessary for sustainable use of fishery resources; and
- (i) the Fisheries Administrator may make provision for further contents to be included in a fisheries management plan required under this section.

(4) In preparing a fisheries management plan, the Fisheries Administrator shall—

- (a) submit the proposed management plan to the Fisheries Council for its review and recommendations;
- (b) ensure consultation or participation of stakeholders in the preparation and review of a fisheries management plan;
- (c) publish the following information by Notice in the *Gazette* and in two national newspapers with wide circulation in Belize—
 - (i) the public offices where copies of the proposed fisheries management plan are to be made available for consultation by the public;
 - (ii) an invitation to stakeholders to submit written or oral comments on the proposed fisheries management plan within a specified period of time, not less than two months nor more than four months from the date the notice is published;
 - (iii) the dates and places where public meetings are to be held within the period of time specified under subparagraph (ii) to allow the public to submit comments.

(5) A fisheries management plan is valid for a period, as approved, which may not exceed five years and may, subject to the provisions of this section, be reviewed or extended by the Fisheries Administrator.

(6) Where a review of a fisheries management plan recommends amendments to the plan, the Fisheries Administrator shall consult with the Council, prior to submission to the Minister, and the Council may recommend—

- (a) the requirement for public consultation; or
- (b) adoption of management plan.

(7) The Fisheries Administrator shall submit to the Minister for approval, a proposed fisheries management plan or proposed amendment thereto, as approved by the Council for adoption, who shall make a decision thereon within thirty days of the submission.

(8) Upon approval of a fisheries management plan, the Minister shall cause Notice thereof to be published in the *Gazette*.

(9) Where the Minister establishes, after consultation with the Council, that a fisheries management plan is not required for a particular fishery, the Minister shall further cause to be established management measures for that particular fishery, consistent with principles of this Act.

11. The Minister, by Order published in the *Gazette*, may declare an area of the fisheries waters to be a fishing priority area, where he considers that special measures are necessary to ensure that authorized fishing within the area is not impeded or otherwise interfered with.

Fishing priority areas.

12.—(1) The Minister, on the recommendation of the Council, may declare by Order published in the *Gazette*, that a specific area, fishery, stock, or species of fish be closed to fishing in order to—

Species requiring special measures.

- (a) prevent further depletion;
- (b) promote recovery and ecosystem services;
- (c) protect critical habitats.

(2) The Fisheries Administrator shall prepare a fisheries management plan for the management of each area, fishery, stock, or species of fish that has been declared under sub-section (1).

13.—(1) The Minister may, after consultation with the Council, enter into a co-management agreement and delegate in the manner provided in sub-section (2), co-management responsibility in whole or in part, with a locally registered non-governmental organization, fishing cooperative, fishing organization, or another organization, local community or other [party] for any area to which this Act applies; however, the co-manager shall—

Co-management.

- (a) have the capacity to co-manage any fishery or area;
- (b) implement the management plan that exists for the fishery or area;
- (c) prepare or periodically update, under the guidance of the Fisheries Administrator, and in accordance with section 10, the management plan for the respective fishery or area; and
- (d) comply with any other requirements consistent with the purposes for which the fishery or area is declared as subject to co-management.

(2) The Minister may delegate co-management responsibility under sub-section (1), by the execution of a legally binding agreement that details the duration, terms and conditions for the co-management of the fishery or area between the Government and the body to whom delegation of management responsibility is intended.

PART V

Fishery Areas, Marine and Inland Water Reserves

Declaration of fishery areas and marine and inland water reserves.

14.—(1) The Minister, by Order published in the *Gazette*, may declare any area of the fisheries waters and, as appropriate, any adjacent or surrounding land, to be—

- (a) a fishery area; or
- (b) a marine reserve or inland water reserve, where he considers that special management measures are necessary—
 - (i) to afford special protection to the flora and fauna of the areas;
 - (ii) to protect and preserve the natural breeding and nursery grounds and habitats of aquatic life;
 - (iii) to allow for the replenishment or restoration of aquatic life in areas where such life has been depleted;
 - (iv) to sustain livelihoods which rely on fisheries resources;
 - (v) to promote scientific study and research in respect of the areas; or

(vi) to preserve and enhance the biodiversity and natural beauty of the area.

No. 17 of 2015.

(2) The exercise by the Minister of the power under sub-section (1) (b) is subject to the requirements of sections 14, 17 and 19 of the National Protected Areas System Act.

(3) The Minister, by Order published in the *Gazette*, may declare zones within any area declared under sub-section (1) (b) as a marine reserve or inland water reserve within which certain activities may be conducted or prohibited.

(4) A fishery area, marine reserve or inland water reserve may provide for—

- (a) the designation of zones within the area, place, or waters where, and the periods when fishing for certain species of fish, shall be prohibited or restricted, or permitted by only by specific types of vessels, or by holders of specified licences, or by specified methods or techniques of fishing or with specified types or quantities of fishing gear, or subject to other conditions as may be specified;
- (b) specifying the species or type of fish that may or shall not be taken and the restrictions, if any, that apply in relation to the taking of any species of fish;
- (c) specifying the number of licences that maybe issued to the area, place or water, prohibit, and regulate the transfer of licences;
- (d) determining a quota or allowable catch for the area, waters or zones therein, for all fish;
- (e) authorizing the type of fishing that may be conducted in each zones, the person that may conduct the fishing, method or technique to be used and the total allowable catch or quota;
- (f) setting limits as to size, numbers, weight, sex, or other factors on any fish;
- (g) establishing a regulatory system for limiting access to the area, place or waters based on the payment of fees.

(5) Where an area under sub-section (1) declared as a fishery area or a reserve no longer serves the purpose for which it was declared, the Minister, by Order published in the *Gazette*, subject to an affirmative resolution, shall revoke the declaration.

(6) Prior to making a declaration under sub-section, the Minister shall hold public consultations with persons having an interest in the fishery area, including users of that area.

Offences and
penalties within
reserves.

15.-(1) A person commits an offence who, in any marine or inland water reserve, without a licence granted by the Fisheries Administrator or without permission granted under section 16, as the case may be –

- (a) fishes, or attempts to fish;
- (b) takes or destroys any flora or fauna ;
- (c) dredges, extracts coral, sand or gravel, discharges or deposits waste or any other polluting matter, or in any way disturbs, alters or destroys the natural environment;
- (d) constructs or erects any buildings or other structures on or over any land or waters within such a reserve; or
- (e) commits any act or takes action which is in violation of this law or any other law relating to marine or inland water reserves.

(2) A person who commits an offence under sub-section (1) is punishable on summary conviction –

- (a) in respect of paragraph (a) or (e), to a fine not less than one thousand dollars but not more than five thousand dollars, or imprisonment for not less than 6 months but not more than a year or both fine and imprisonment;
- (b) in respect of paragraph (b), (c) or (d),
 - (i) to a fine not less than five thousand dollars but not more than one hundred thousand dollars or imprisonment for a term not exceeding one year or to both fine and imprisonment; and
 - (ii) the cost to rehabilitate the area to its natural state.

16. Where an activity that could have a detrimental impact on a marine or inland water reserve is planned within that marine or inland water reserve, a person, body, agency, department or ministry having authority over any matter pursuant to any Act or law, shall not, whether provisionally or finally, approve or determine such matter until the written consent of the Minister is received, which consent shall be given or denied only after consultation with and consideration of, any recommendation made by the Council.

Consent of Minister required for activities having detrimental impact within reserves.

17. The Minister may –

Power to make regulations, orders, etc., for reserves.

(a) make regulations–

- (i) for the general management of marine or inland water reserves;
- (ii) setting fees for entrance to and activities in, a marine or inland water reserve;
- (iii) providing for the development and adoption of management plans in respect of marine or inland water reserves;
- (iv) providing for research permits and fees for issuance of research permits;
- (v) providing for management plans for marine or inland water reserves which shall include,
 - (aa) physical, biological, socio-economic and cultural aspects of the marine or inland water reserve;
 - (bb) conservation and management objectives; and
 - (cc) management programmes,

(b) by Order–

- (i) establish an advisory committee for each marine or inland water reserve or any combination of reserves;
 - (ii) determine the terms of reference of any advisory committee established under paragraph (i);
- (c) take any action necessary for the protection and preservation of a marine or inland water reserve.

General offence
and penalty.

18. A person who undertakes an activity contrary to the provisions of this Part or to any regulations made pursuant to this Part for which no other penalty provision is made, commits an offence, and is liable to a fine not less than one thousand dollars but not more than one hundred thousand dollars or to imprisonment for a term not exceeding three years or to both the fine and imprisonment.

PART VI

Requirement for Licences and Conditions

No fishing
without a
licence.

19. A person shall not engage in fishing activity or related activity or be engaged or employed in or on any vessel while in use for fishing activity unless he is the holder of a valid licence for the activity.

Activities
requiring a
licence.

20.—(1) A person shall hold the appropriate licence issued by the Fisheries Administrator, where that person intends to engage in any of the following types of fishing or related activities including—

- (a) commercial fishing;
- (b) non-commercial fishing;
- (c) aquarium trade;
- (d) export or import of fish;
- (e) fish processing;
- (f) research;
- (g) mariculture;
- (h) bio-prospecting;
- (i) operating as a fish dealer;
- (j) test fishing.

(2) Notwithstanding sub-section (1), the Minister may make regulations designating a category of fishing, related activity or other activity related to the utilization, conservation and management of fisheries resources as requiring a licence under this Act.

(3) The manner of application for, and renewal of, licences and any other matter related to licensing shall be as prescribed in the Regulations.

21.—(1) The consideration of an application for and issuance of any licence are subject to a fisheries management plan being in effect for the respective fishery or area.

Conditions of licences.

(2) An application for, and renewal of, a licence and any other matter related to licensing shall be as prescribed in the Regulations.

(3) A licence is—

- (a) subject to general or specific conditions as may be prescribed;
- (b) where applicable, valid only for the fishery in managed access areas or any other areas declared under this Act that have been specified in the licence; and
- (c) not transferable.

(4) The Fisheries Administrator may attach to any fishing licence, related activity licence or other activity licence, conditions relating to the proper management of fisheries or the activity, including but not limited to, catch limits, the base of operations of the fishing vessel, the landing of its catch and the gathering of information on the vessel's operations.

(5) The Fisheries Administrator may, from time to time, where he is satisfied that it is expedient for the proper management of fisheries in the fisheries waters or the proper regulation of fishing operations, related activity or other activity licensed under this Act, vary the conditions attached to a licence.

(6) Where the Fisheries Administrator varies any conditions attached to any category of fishing licence, related activity licence, or other licence issued under this Act, he shall notify the licence holder of such variation as soon as practicable and any such variation shall be enforceable provided the licence holder is informed.

22.—(1) The Fisheries Administrator may cancel or suspend any licence or a category of licences where—

Cancellation or suspension of fishing licence.

- (a) it is necessary to do so in order to allow for the proper management of any particular fishery in accordance with a fishery management plan for that fishery;
- (b) following the inspection of a local fishing vessel, the certificate of registration of the vessel has been cancelled under this Act;

- (c) the licence holder has used the vessel in contravention of this Act or of any regulations made thereunder, or of any conditions of the licence or in breach of any applicable access agreement; or
- (d) he is required or authorized to do so in accordance with the provisions of any agreement entered into under Part VII.

(2) Where the Fisheries Administrator is of the opinion that a fishing licence ought to be suspended or cancelled, the Fisheries Administrator shall notify the licensee of the intention to suspend or cancel it, stating the grounds for suspension or cancellation and inviting the licensee to make representation thereon within fourteen working days, whether in person or in writing.

Notice.

23. The notice of any variation of a condition of licence or any cancellation or suspension of a licence issued under this Act shall be in writing, which may include electronic communication.

Appeals against the decision of the Fisheries Administrator.

24. A person affected or aggrieved by a decision of the Fisheries Administrator to—

- (a) refuse an application for a licence or renewal thereof; or
- (b) cancel or suspend a licence,

may, within thirty days of the receipt of notification of that decision, appeal against it in writing to the Minister.

Cancellation of licence upon conviction.

25.—(1) The Fisheries Administrator may suspend, or cancel any licence or prohibit a person from applying for any licence, who has been convicted of any offence against this Act or the Regulations.

(2) Upon suspension or cancellation of licence or further prohibiting a person from applying for any licence, the Fisheries Administrator shall notify the person of the decision which shall be final.

PART VII

Cooperation and Fishing Access Agreements for fishing within the Belize Fisheries Waters

Regional co-operation in fisheries.

26.—(1) The Minister may enter into arrangements or agreements with other states or with any competent organization with the purpose of promoting regional co-operation in fisheries.

(2) Arrangements or agreements referred to in sub-section (1) may provide for, among other things, the harmonization of systems for collecting

statistics, carrying out surveys for assessing the state of the fishery resources, harmonization of licensing procedures regarding foreign fishing vessels, and co-operation in enforcement measures in respect of foreign fishing vessels.

27.-(1) The Government may enter into access agreements with other States and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those States or associations.

Fisheries Access
Agreements.

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

(3) An access agreement entered shall include a provision establishing the responsibility of the other State 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 the fisheries waters.

(4) For the purpose of this section, "State" includes any regional organization to which the power to negotiate access agreements has been delegated by the member countries of that organization.

28.-(1) A person shall not use a foreign fishing vessel for fishing in the fisheries waters unless the person holds a [valid] foreign fishing vessel licence therefor authorizing the foreign fishing vessel to be used in the fisheries waters for such fishing as may be specified in the licence.

Foreign fishing
vessel licences.

(2) Sub-section (1) does not apply to any foreign fishing vessel used purely for the purpose of fisheries-related research in respect of which there is a [valid] authorization issued under this Act.

(3) An application for a foreign fishing vessel licence shall be made, in the prescribed form and manner, to the Fisheries Administrator.

(4) Subject to the provisions of this Act and the Regulations, the Fisheries Administrator, after consultation with the Council, may issue a foreign fishing vessel licence.

(5) Subject to sub-sections (6) and (7), a foreign fishing vessel licence shall not be issued to any foreign fishing 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 access agreement to which the Government of Belize is a party.

(6) A foreign fishing vessel licence may be issued in respect of-

- (a) test-fishing operations;
- (b) a Belize based foreign fishing vessel,

notwithstanding the absence of an access agreement otherwise required under sub-section (5).

(7) Where the Minister determines that an agreement under sub-section (5) in respect of a foreign fishing vessel is not a practical requirement, he may issue a licence in respect of that vessel where the applicant provides sufficient financial and other guarantees relating to his fulfilment of all obligations arising under this Act.

(8) Where a foreign fishing vessel is used in contravention of sub-section (1) or of any condition of a foreign fishing vessel licence, the master, owner and charterer of that vessel each commits an offence and each is liable on summary conviction to a fine not less than ten thousand dollars nor more than one hundred thousand dollars.

PART VIII

Provisions Applicable to Both Foreign and Local Fishing within the Belize fisheries waters

No fishing without a licence.

29. A person shall not engage in commercial fishing or be engaged or employed in or on any boat while in use for commercial fishing unless he is the holder of a valid fishing licence issued under this Act.

Validity of fishing licences.

30.—(1) Unless earlier cancelled in accordance with provisions of this Act, a fishing licence

- (a) is valid for such period as may be specified in the licence;
- (b) may be issued for a maximum period of three years; and
- (c) shall expire on December 31st of the final year of its validity.

(2) Where a vessel licenced as a local fishing vessel becomes a foreign fishing vessel, the licence automatically ceases to be valid.

(3) A fishing licence is valid only for the fisheries or areas that have been specified in the licence.

(4) No fishing licence is transferable.

Conditions of fishing licences.

31.—(1) Every fishing licence is subject to any management plan in effect for the respective fishery or area.

(2) A fishing licence issued under this Act shall be in the prescribed form and is subject to—

- (a) general or specific conditions as may be prescribed under this Act;
- (b) any conditions as may be specified under sub-section (3); and
- (c) special conditions as may be specified under sub-section (4).

(3) The Minister may, by Regulations, specify 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, fishing areas, gear types and restrictions, species, sizes and submission of catch information.

(4) The Fisheries Administrator may attach to any local fishing licence such special conditions as he may think fit relating to the proper management of fisheries, including but not limited to, catch limits, the base of operations of the vessel, the landing of its catch and the gathering of information on the vessel's operations.

(5) The Fisheries Administrator may, from time to time, where he is satisfied that it is expedient for the proper management of fisheries in the fisheries waters or the proper regulation of fishing operations, vary any special conditions attached to any fishing licence.

(6) Where the Minister or the Fisheries Administrator varies any conditions attached to any category of fishing licence he shall notify the licence holder of such variation as soon as practicable and any such variation shall be enforceable provided the licence holder is informed.

32. Any variation of a condition given under section 31 or cancellation or suspension under section 22 shall be in writing, which may include electronic communication.

Notice.

33. A person affected or aggrieved by—

- (a) the refusal of the Fisheries Administrator to issue or renew a licence in accordance with this Act; or
- (b) the cancellation or suspension by the Fisheries Administrator of a licence issued under this Act;

Appeals from
decision of
Fisheries
Administrator.

may, within 30 days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final.

PART IX

Fisheries Port Measures

Fisheries port measures and power to make regulations.

34.—(1) For the purpose of promoting the effectiveness of international conservation and management or pursuant to treaties or arrangements, the Minister may make regulations concerning the following matters—

- (a) the designation of fisheries port inspectors;
- (b) the training and qualifications of fisheries port inspectors;
- (c) establishing the procedures, the contents of and the results to be obtained from an inspection regime;
- (d) prescribing the powers of inspectors, the mode of conducting an inspection, including the power to inspect any area of the fishing vessel, the catch (whether processed or not), any fishing gear, equipment or other gear and document which the inspector deems necessary to verify compliance with relevant conservation and management measures;
- (e) requiring the provision of such assistance or information as may be needed in order to undertake inspections;
- (f) regulating or prohibiting the landing, transhipment, packaging or processing of fish which—
 - (i) has been identified or reported as having been engaged in or supporting fishing activities in contravention with regional, sub-regional or global conservation measures, or where there are reasonable grounds for presuming that a vessel has been engaged in such activity;
 - (ii) has been included on the list of vessels maintained by sub-regional, regional or global fisheries organizations that are believed to have engaged in illegal, unregulated or unreported fishing;
 - (iii) has been identified or reported as having been engaged in or supporting fishing activities in areas under national jurisdiction in contravention of the laws of a particular State, or fishing on the high

seas without an authorization to do so from its flag State or where there are reasonable grounds for presuming that a vessel has been engaged in such activity;

- (g) authorizing the cooperation and exchange of information, including inspection results with other States and sub-regional, regional or global fisheries organizations;
- (h) providing for a system of appeal against decisions taken in respect of fishing vessels under this section; or
- (i) providing for any other measures that may be agreed to by sub-regional, regional or global fisheries organizations, or pursuant to a treaty or arrangement.

(2) Prior to entering a port, a master, or local fishing agent or shipping representative, of a foreign fishing vessel shall—

- (a) notify the Ports Commissioner of its intended entry at the port at least forty-eight hours prior to that entry; and
- (b) provide to the Ports Commissioner—
 - (i) vessel identification;
 - (ii) any authorization to fish;
 - (iii) information on its fishing trip and vessel monitoring systems;
 - (iv) quantities of fish on board; and
 - (v) such other documentation or information as may be required by the Ports Commissioner in accordance with national laws or Conventions.

(3) The Ports Commissioner, after consultation with the Fisheries Administrator, may prohibit from entering a port of Belize a vessel which has been identified as being engaged in or supporting fishing in contravention of international conservation and management measures and whose flag State is not a member of, nor is it a cooperating non-contracting Party to, that regional or sub-regional fisheries organization, unless it can be established that the catch on board has been taken in a manner consistent with the relevant conservation and management measures.

(4) A prohibition under sub-section (2) may apply to an individual vessel or to a fleet of vessels.

(5) The Ports Commissioner, after consultation with Fisheries Administrator, may refuse entry to a port of Belize to a fishing vessel which he has reasonable grounds to believe is without nationality, or has operated under the flags of two States and has used them according to convenience.

(6) References to ports in this section include offshore terminals and other installations for landing, transshipping, refuelling or resupplying vessels.

(7) A person who fails to comply with the provisions of this section or with any regulations made in accordance with its provisions commits an offence and is liable on summary conviction to a fine not less than one hundred thousand dollars nor more than three million dollars.

PART X

Scientific Research, Test-Fishing Operations, etc.

35.—(1) The Fisheries Administrator shall require a plan for any scientific research, test-fishing operations or bio-prospecting to be conducted in the fisheries waters.

(2) The Fisheries Administrator may attach conditions according to which a scientific research, test-fishing operations or bio-prospecting is authorized be undertaken in the fisheries waters.

(3) Each vessel or person licensed in accordance with this section shall comply with all applicable laws of Belize and any conditions of such authorization.

(4) A person who undertakes or assists in any scientific research, bio-prospecting or test fishing or any other fisheries related research, in the fisheries waters or elsewhere in Belize—

(a) without a license under section 19;

(b) in contravention of any condition or conditions attached to the license under sub-section (2); or

(c) in contravention of any other requirements of the Act or regulations,

commits an offence and is liable on summary conviction to a fine not less than five thousand dollars nor more than one hundred thousand dollars.

36.—The Minister may make regulations providing for—

Regulations.

- (a) the further regulation and control of—
 - (i) marine scientific research;
 - (ii) test-fishing;
 - (iii) bio-prospecting;
- (b) the sharing of the benefits of research;
- (c) attribution of data collected in scientific research and test-fishing operations;
- (d) reporting requirements;
- (e) disposal of catch obtained in scientific research and test fishing operations.

PART XI

Prohibited Fishing Methods, Stowage of Gear and Transhipment

37.—(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) permits to be carried, carries or has in his possession or control any explosive, poison, or other noxious substance in circumstances evidencing an intention of using the explosive, poison, other noxious substance for any of the purposes referred to in paragraph (a),

commits an offence and is liable on summary conviction to a fine not less than five thousand nor more than one hundred thousand dollars or imprisonment for a term not exceeding five years or both.

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

(3) A person who lands, sells, receives, or is found in possession of any fish taken by any means which is in contravention of sub-section (1)(a), commits an offence and is liable on summary conviction to a fine not less than five thousand dollars nor more than one hundred thousand dollars or to imprisonment for term not less than six months nor more than two years, or to both fine and imprisonment.

(4) In any proceedings for any offence against this section, a certificate as to the cause and manner of death or injury of any fish, signed by the Fisheries Administrator, or by a person authorized by him in writing, shall, until the contrary is proved, be sufficient evidence as to the matters stated in the certificate.

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

Stowage of
fishing gear.

38.—(1) The fishing gear of any fishing vessel which does not have permission to fish in the fisheries waters or fishing areas, shall at all times keep its fishing gear securely stowed so as not to be readily available for use.

(2) Where a fishing vessel is licensed to fish by means of a particular type of fishing gear in any specific area of the fisheries waters, any other fishing gear on board the vessel shall be stowed while the vessel is within that area and all fishing gear on board the vessel shall be stowed while the vessel is or within any other area of the fisheries waters where it is not licensed to fish.

(3) Where a local fishing vessel contravenes sub-section (1) or (2), the master, owner and charterer of that vessel is each committing an offence, and is liable on summary conviction to a fine not less than one thousand dollars nor more than five thousand dollars, or to imprisonment for a term not less than six months nor more than one year, or to both fine and imprisonment.

(4) Where a foreign fishing vessel contravenes sub-section (1) or (2), the master, owner and charterer of that vessel is each committing an offence, and is liable on summary conviction to a fine not less than five thousand dollars nor more than two hundred thousand dollars, or to imprisonment for a term not less than one year nor more than two years, or to both fine and imprisonment.

Transshipment.

39.—(1) The Fisheries Administrator may authorize in writing any transshipment involving any vessel in the fisheries waters where such activity does not constitute a condition of licence for fishing, in accordance with any applicable access agreement and any requirements which may be prescribed.

(2) The Fisheries Administrator shall attach such conditions as may be prescribed and may attach additional conditions as he thinks fit which are consistent with any conditions which may be prescribed, to any authorization granted under sub-section (1).

(3) Each person authorized in accordance with this section shall comply with all applicable laws of Belize and any conditions of such authorization.

(4) The Fisheries Administrator may suspend such authorization if there is failure to comply with the conditions of the authorization or the requirements of this Act.

(5) Any authorization granted under this section shall be in writing.

(6) A person commits an offence who undertakes any transshipment activity in respect of a vessel without an authorization issued pursuant to this section, and shall be liable on summary conviction to a fine not less than five thousand dollars nor more than one hundred thousand dollars, or to imprisonment for a term not exceeding five years or both.

PART XII

Record of Fishing Vessels

40.-(1) The Fisheries Administrator shall cause to be kept a record of fishing vessels that are authorized to fish in the fisheries waters.

Record of fishing vessels authorized to fish in fisheries waters.

(2) The Fisheries Administrator shall determine the information to be included in the record of fishing vessels to fish in the fisheries waters.

(3) The owner or operator of any fishing vessel authorized to fish in the fisheries waters shall provide to the Fisheries Administrator such information as may be required under sub-section (2) of this section, and failure to do so is an offence punishable on summary conviction by a fine not less than one thousand dollars nor more than two thousand dollars.

PART XIII

Mariculture

41.-(1) A person shall not engage in mariculture activities except in accordance with this Act or regulations.

Mariculture operations.

(2) A person shall not establish or operate any business or experimental operation involving mariculture activities including the processing of mariculture products without the written permission of the Fisheries Administrator.

(3) The Minister may by regulations specify any conditions relating to the establishment or operation of a mariculture facility, including conditions or requirements relating to—

- (a) the location and nature of the mariculture operations;
- (b) the fish or other aquatic organisms to be cultivated or not to be cultivated and the source of the stock;
- (c) the construction of the mariculture facilities and the operation of those facilities and measures in place to prevent the introduction of alien species;
- (d) the prevention of the spread of communicable fish diseases;
- (e) the inspection of mariculture sites and facilities;
- (f) the provision of statistical, scientific and commercial information;
- (g) the conservation, management and sustainable use of the aquatic environment; and
- (h) other permits that may be required by other agencies.

(4) The Minister may make regulations providing for the management, licensing and control of mariculture, including—

- (a) the species which may be farmed;
- (b) the use of genetically modified organisms;
- (c) the preparation of a mariculture plan by an applicant seeking to set up a mariculture facility;
- (d) the establishment of areas in which only certain types of mariculture activities can occur.

Offence and
penalty.

42. A person who contravenes the provisions of this Part commits an offence and is liable on summary conviction to a fine not less than ten thousand dollars nor more than one hundred thousand dollars or to imprisonment for a term not less than one year but not more than three years, or to both fine and imprisonment.

PART XIV

Monitoring, Control and Surveillance

43.—(1) In the course of the enforcement and administration of this Act, a Fisheries Officer, at any time may—

Powers of entry and search.

- (a) stop, enter, board or examine any vessel or vehicle, or enter and examine any premises or place, or examine any record, document, article, and any gear, apparatus, device, or contents of any kind therein;
- (b) stop a person and examine any record, document, article, container, gear, apparatus, device, or fish in the possession of that person;
- (c) pass across any land; or
- (d) board, and inspect any fishing vessel in any port located in Belize.

(2) If a Fisheries Officer suspects, on reasonable grounds that—

- (a) an offence is being or has been committed against this Act; and
- (b) concealed or located or held in any vessel, vehicle, conveyance of any kind, premises, place, parcel, package, record, or thing—
 - (i) any fish taken or object used or intended to be used in contravention of this Act;
 - (ii) any record or information required by or under this Act to be kept, completed, or provided; or
 - (iii) any article, record, document, or item which there is reasonable ground to believe will be evidence as to the commission of an offence against this Act,

then, for the purpose of the enforcement of this Act, he may at any reasonable time enter or pass across any land in order to enter, examine, and search any such premises or place, or any such vessel, vehicle, or conveyance of any kind (by stopping or opening where necessary), and

may examine and search (by stopping or opening where necessary) any such parcel, package, record, or thing.

(3) A Fisheries Officer may detain a person, vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, or object for such period as is reasonably necessary to enable the fishery officer to carry out an examination or search under this section,

Provided that where an examination or search is to be carried out over a period of days, the Fisheries Administrator shall ensure that the vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, or object is secured and preserved, as the case may be.

Power to question persons and require production of documents.

44. For the purpose of the enforcement of this Act, a Fisheries Officer may—

- (a) require the person being questioned to provide an answer, including any explanation or information concerning any vessel, or any place or thing, or any fish or fishing method, gear, apparatus, record, document, article, device, or object relating to the taking, sale, purchase, or possession of any fish;
- (b) require that person or any other person to produce any permit, authority, approval, permission, licence, or certificate issued in respect of any vessel or person;
- (c) make or take copies of any record or document, and for this purpose may take possession of, and remove from the place where they are kept, any such record or document, for such period of time as is reasonable in the circumstances; and
- (d) if necessary, require a person to reproduce, or assist the Fisheries Officer to reproduce, in a useable form, information recorded or stored in a document.

(2) Nothing in sub-section (1) shall be construed so as to require a person to answer any question tending to incriminate that person.

Powers of arrest.

45.—(1) For the purpose of the enforcement of this Act a Fisheries Officer, if he believes on reasonable grounds that a person is committing or has committed an offence against this Act, may—

- (a) order that person to desist forthwith;
- (b) request that person to supply to that Fisheries Officer the name by which that person is commonly known and the

person's family name or surname, date of birth, actual place of residence, and occupation and may request that person to supply such verification of those details as it is reasonable in the circumstances to require the person to provide; and

(c) without warrant, arrest that person.

(2) If a Fisheries Officer arrests a person under sub-section (1) the Fisheries Officer shall cause the person to be delivered into the custody of a member of the Belize Police Department as soon as practicable and the provisions of the Summary Jurisdiction (Procedure) Act shall apply.

(3) Notwithstanding any other law to the contrary, a person arrested under sub-section (2) shall be offered bail in respect of the offence for which he is accused at three (3) times the cost of the maximum penalty for the offence.

CAP. 99.

46.—(1) For the purpose of the enforcement of this Act, a Fisheries Officer may, if he believes that a vessel is being or has been used in contravention of the provisions of this Act or of the conditions of any permit, authority, approval, permission, licence, registration, or certificate issued under this Act, require the master to take the vessel, as soon as reasonably practicable, to the nearest location, or port in Belize, to such other port as may be determined by the Fisheries Officer.

Power to give directions to master.

(2) If a Fisheries Officer has given a direction under sub-section (1), he may also give to the master or a person on board the vessel any reasonable directions in respect of any activity, method, procedure, item, gear, document, fish, property, or object while the vessel is proceeding to port.

47. For the purpose of the enforcement of this Act, a Fisheries Officer is justified in using such force as may be reasonably necessary to enable the exercise of his powers under this Act.

Power to use reasonable force and to take copies of documents.

48.—(1) A Fisheries Officer may seize—

Powers of seizure.

(a) any vessel, vehicle or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment, or object which the Fisheries Officer believes on reasonable grounds is being or has been or is intended to be used in the commission of an offence against this Act;

(b) any fish which the Fisheries Officer believes on reasonable grounds are being, or have been, taken, killed, transported, bought, sold, or found in the possession of a person or

vessel, in contravention of this Act, and any fish with which such fish have been intermixed; and

- (c) any article, record, document, or item which the Fisheries Officer believes on reasonable grounds is evidence of the commission of an offence against this Act.

(2) Any property seized under sub-section (1) shall be delivered into the custody of the Fisheries Administrator.

(3) A written receipt shall be given for any article or thing seized under this section.

Procedure on seizures.

49.—(1) The Court may, at any time until an information or charge is laid in respect of the alleged offence for which the property was seized, on application by—

- (a) the person from whom the property was seized; or
- (b) the owner or person entitled to the possession of the property seized,

release the property to any such person under bond in such sum and under such sureties and conditions, if any, as the Court may specify.

(2) Where a person to whom property is released under sub-section (1) fails to comply with the conditions of any bond or with any condition specified by the court—

- (a) the property may be re-seized at any time at the direction of the court;
- (b) the provisions of this section shall thereupon apply to the property as if it had been seized under section 48 of this Act;
- (c) the Fisheries Administrator may, in the case of failure to comply with the conditions of any bond, apply to the Supreme Court for an order for estreat of the bond;
- (d) where the Fisheries Administrator so applies the Registrar shall fix a time and place for the hearing of the application, and shall, not less than 7 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed;
- (e) if on the hearing of any such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to estreat the

bond to such an amount as it thinks fit to a person bound thereby on whom notice is proved to have been served in accordance with this sub-section; and

- (f) any penalty payable in accordance with this sub-section shall be recoverable as if it were a fine.

(3) Where, in the opinion of the Fisheries Administrator, any fish or other article seized section 48 of this Act may rot, spoil, deteriorate or otherwise perish, the Fisheries Administrator may apply to the Court for its sale or disposal in such manner as the Court may determine and the sale shall be at fair market value.

(4) Where the ownership of any property seized, cannot at the time of seizure be ascertained, the property seized shall be forfeited to the Government and shall be disposed of as directed by the Court after 90 days from the date of seizure if, within that time, it has not been possible to establish the ownership of the property or where sub-section (3) applies, the period of time may be determined by the Court.

(5) A purchaser for valuable consideration of any fish, article or property sold under sub-section (3) or sub-section (4) shall derive good and unencumbered title in respect of that fish, article or property, as the case may be.

(6) Subject to sub-section (1), all property seized under section 48 of this Act and the proceeds from the sale of any such property pursuant to sub-section (3), except where such property has been disposed of by the Government pursuant to sub-section (4), shall be held in the custody of the Fisheries Administrator acting on behalf of the Government until—

- (a) a decision is made not to lay any information or charge in respect of the alleged offence for which the property was seized; or
- (b) where such a charge or information is laid, upon the completion of proceedings in respect of the alleged offence for which the property was seized, or such sooner time as the Court may determine.

50.—(1) Where any information or charge has been laid in respect of the alleged offence for which the property was seized pursuant to section 48 (1) (a), and that property remains in the custody of the Government, the Court may at any time, on application by—

- (a) the person from whom the property was seized; or

Requirements for
seized property.

- (b) the owner or person entitled to the possession of the property seized,

release the property under bond to any such person, and any such release may be subject to such sureties and conditions as the Court may specify.

(2) In determining the value of the bond or other form of security, the Court shall have regard to the aggregate amount of—

- (a) the value of the property to be released;
- (b) the total maximum fine or fines provided for the offence charged or likely to be charged; and
- (c) the loss, damages or costs the prosecution would be likely to recover if a conviction were entered, and the Court may set the value at such aggregate amount.

(3) The decision whether or not to lay any information or charge in respect of an alleged offence for which any property is seized under section 61 of this Act shall be made as soon as reasonably practicable after the property is seized, taken possession of, or detained.

(4) The Government shall not be liable to a person for any spoilage or deterioration in the quality of any fish seized under section 48 of this Act.

(5) Subject to sub-section (10), but notwithstanding any other provisions of this section, where any property has been seized under section 48 of this Act, then—

- (a) on a decision being made not to lay an information or charge; or
- (b) on the acquittal of a person charged with an offence for which the property is subject to forfeiture,

such property, or the proceeds from the sale of such property or proceeds of sale, shall forthwith be released from the custody of the Government of Belize to the person entitled thereto.

(6) Notwithstanding any other provisions in this section, a Fisheries Officer who at the time of seizure returns to the water any fish seized pursuant to section 48 of this Act that he believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish was seized in the event of a decision being made not to lay an information or charge in respect of the fish, or of the person being acquitted of the charge.

General powers.

51.—(1) A Fisheries Officer may do all such acts and give such directives as are reasonably necessary for the purposes of exercising any of his powers under this Act.

(2) The powers of a Fisheries Officer under this Act are exercisable—

- (a) within Belize; and
- (b) in the fisheries waters,

in relation to any conduct whether or not that conduct occurred in the fisheries waters.

Persons to assist Fisheries Officer.

52.—(1) A Fisheries Officer exercising any of the powers conferred on him by this Act may do so with the aid of such assistants as he considers necessary for the purpose.

(2) Every person called upon to assist a Fisheries Officer in the exercise of any of the powers conferred on that person by this Act is hereby required to render such assistance.

Protection of Fisheries Officer from liability.

53.—(1) No Fisheries Officer who does any act under this Act, or omits to do any act required by this Act, shall be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he has acted, or omitted to act, in bad faith.

(2) A person who, while assisting a Fisheries Officer under any provision of this Act, does or omits to do any act required by this Act, shall not be under any civil or criminal liability as a result of that act or omission on the ground of want of jurisdiction or mistake of law or fact, or any other ground, unless he has acted, or omitted to act, in bad faith.

(3) The Government shall not be held directly or indirectly liable for an act or omission of a Fisheries Officer or person, unless the Fisheries Officer or person would himself incur liability for the act or omission.

Removal of parts from seized vessels, etc.

54.—(1) A Fisheries Officer may remove any part or parts from any vessel, vehicle or aircraft held in the custody of the Government for the purpose of immobilizing that vehicle or aircraft.

(2) Any part or parts removed under sub-section (1) shall be kept safely and returned to the vessel, vehicle or aircraft upon its lawful release from custody.

(3) No person, otherwise than acting under the authority of the Fisheries Administrator, shall possess or arrange to obtain any part or parts removed under sub-section (1) or possess or arrange to obtain or make any replacement or substitute part or parts for those removed under sub-section (1) or shall fit or attempt to fit any part or parts or any replacement or substitute part or parts to a vessel, vehicle or aircraft held in the custody of the Government.

Observers.

55.—(1) The Fisheries Administrator may designate in writing persons to act as observers on vessels issued with valid licences or authorizations pursuant to this Act.

(2) Notwithstanding sub-section (1), observers may be designated in accordance with any fishery management plan, treaty, international conservation and management measure and shall be designated where required by any fishery plan or any agreement or where an observer or class of observers has been certified under the terms of such plan, treaty or international conservation and management measure.

(3) Persons designated in accordance with sub-section (2) who are not Belizean nationals shall be subject to the provisions of this Act while carrying out their duties and functions.

(4) The duties and functions of an observer include—

- (a) board and remain on such vessel at such time and place as the Fisheries Administrator may require;
- (b) to hold, process, weigh and store fish;
- (c) to inspect and copy records;
- (d) to inspect fishing gear;
- (e) to inspect navigation and radio equipment;
- (f) to take fish samples;
- (g) take photographs of the fishing operations, including fish, fishing gear, equipment, charts and records, and remove from the vessel such photographs or film as the observer may have taken or used on board the vessel;
- (h) send or receive messages by means of the vessel's communications equipment;
- (i) gather any other information relating to fisheries in the fisheries waters or other areas as may be required by licence or authorization; and

(j) to conduct scientific and monitoring of fish.

(5) The master, and each member of the crew of such vessel shall permit and assist an observer to—

(a) board and remain on such vessel for the purpose of carrying out the observer's duties and functions, at such time and place as the Fisheries Administrator may require;

(b) have full access to and the use of facilities and equipment on board the vessel which the observer may determine is necessary to carry out his duties, including

(i) full access to the fridge, fish on board and areas which may be used to hold, process, weigh and store fish;

(ii) full access to the vessel's records including its log and documentation for the purpose of records inspection and copying;

(iii) full access to fishing gear on board;

(iv) full access to navigation equipment and radios;

(v) take and remove from the vessel reasonable samples for the purposes of scientific investigation and other relevant information;

(vi) take photographs of the fishing operations, including fish, fishing gear, equipment, charts and records, and remove from the vessel such photographs or film as the observer may have taken or used on board the vessel;

(vii) send or receive messages by means of the vessel's communications equipment; and

(viii) gather any other information relating to fisheries in the fisheries waters or other areas as may be required by licence or authorization;

(c) conduct scientific, monitoring and other functions;

(d) carry out the observer's duties safely; and

- (e) disembark at such time and place as may be determined by the Fisheries Administrator or in accordance with an access agreement.

(6) While on board the vessel, the operator shall provide the observer, at no expense to the Government, with food, accommodation and medical facilities at a standard equivalent to that provided to officers of that vessel or to such reasonable standard as may be acceptable to the Fisheries Administrator.

(7) In addition to the requirements in sub-section (6), the Fisheries Administrator may require the operator to pay in full the following costs of the observer—

- (a) travel costs to and from the vessel;
- (b) such salary as may be notified by the Fisheries Administrator, being the full amount of such salary; and
- (c) full insurance coverage.

(8) The master of a vessel with a valid licence issued in accordance with this Act shall allow and assist any observer to have full access to any place within Belize where fish is unloaded or transhipped, to remove samples and to gather any information relating to fisheries or operation of the vessel.

Duties towards
Fisheries
Officers and
observers.

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

(2) The master and each crew member of a vessel, driver of a vehicle and pilot and crew of an aircraft shall ensure the safety of a Fisheries Officer or observer as appropriate in the performance of his duties.

(3) A person commits an offence who contravenes sub-sections (1) or (2), or—

- (a) assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to ensure the safety of or otherwise interferes with a Fisheries Officer or observer in the performance of his duties;
- (b) incites or encourages any other person to assault, resist, or obstruct a Fisheries Officer while in the execution of his

- powers or duties, or a person lawfully acting under the officer's orders or in his aid;
- (c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards a Fisheries Officer or observer while in the execution of his powers or duties, or a person lawfully acting under a Fisheries Officer's orders or in his aid;
 - (d) fails to comply with the lawful requirements of a Fisheries Officer or observer;
 - (e) furnishes to a Fisheries Officer any particulars which are false or misleading in any material respect;
 - (f) impersonates or falsely represents himself to be a Fisheries Officer, or who falsely represents himself to be a person lawfully acting under a Fisheries Officer's orders or in his aid;
 - (g) resists lawful arrest for any act prohibited by this Act; or
 - (h) is in breach of any other duty to a Fisheries Officer or Fisheries observer under this Act.

(4) For the purpose of sub-section (3), a person who does not allow a Fisheries Officer, or a person acting under his orders or in his aid, or an observer, to exercise any of the powers conferred on such person by this Act shall be deemed to be obstructing that officer or person.

(5) A person who, being a master, owner, charterer, agent, or a company who controls a fishing vessel which requires to transport or have on board a Fisheries Officer or Observer in the fisheries waters and causes that officer to disembark outside the territory of Belize, commits an offence and upon summary conviction shall be liable, in addition to any fine, for all costs of repatriation including board and lodging while out of Belize and direct transportation to Belize.

(6) A person who commits an offence against this section is liable on summary conviction to a fine not less than one thousand dollars nor more than one hundred thousand dollars or to imprisonment for a term not less than six months nor more than two years or to both fine and imprisonment.

PART XV

Jurisdiction and Evidence

Liability for
non-payment
of penalties

57. All pecuniary penalties and all forfeitures incurred or imposed pursuant to this Act, and the liability to forfeiture of any article seized under the authority thereof, and all rents, charges, expenses and duties and all other sums of money payable under this Act may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in the name of the Fisheries Administrator as the nominal plaintiff, and all such proceedings shall be deemed to be civil proceedings, and the fact that a bond or other security has been paid shall not be pleaded or made use of in answer to or in stay of any such proceedings.

Liability for
loss, damage
or costs
incurred.

58. A person who commits an offence against this Act may, upon summary conviction, and in addition to any fine or penalty imposed on that person under this Act, be held liable to the Government of Belize for—

- (a) any loss or damage caused by the offence including loss or damage to the ecosystem;
- (b) any costs incurred in detecting, apprehending, investigating or prosecuting the offence; and
- (c) any costs incurred in detaining or seizing any fish or other property in respect of that offence,

and the amount of compensation for such loss, damage or costs may be awarded by the Court as restitution in addition to, and recovered in the same manner as, a fine.

Certificate of
evidence.

59. The Fisheries Administrator or a Fisheries Officer authorized in writing by him may give a certificate stating that—

- (a) a specified vessel or person was or was not on a specified date the holder of any specified licence, authorization or certificate of registration;
- (b) an appended document is a true copy of the licence, authorization or other document granted or issued under this Act and that specified conditions were attached to such document;
- (c) a particular location or area of water was on a specified date—
 - (i) within the fisheries waters;

- (ii) within a marine or inland reserve or otherwise closed, limited, restricted or in any other way controlled area of the fisheries waters; or
- (iii) an area of the fisheries waters subject to specified conditions;
- (d) an appended chart shows the boundaries on a specified date of the fisheries waters, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;
- (e) a particular item or piece of equipment is fishing gear;
- (f) a particular circumstance was the cause and manner of death of or injury to any fish;
- (g) an appended document is a true copy of a treaty or international conservation and management measure or other bilateral or multilateral legal instrument;
- (h) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;
- (i) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel;
- (j) any specified return, log, record or information required to be kept or furnished under this Act was or was not kept or furnished;
- (k) any specified interest in any specified fishing right was or was not held by a person named in the certificate; or
- (l) particular information represents the identity or species of the fish in question.

60.—(1) Where in any proceedings under this Act the place or area in which a vessel is alleged to have been located at a particular date and time or during a particular period of time is material to an offence charged, then a place or area stated in a certificate given by a Fisheries Officer shall be evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.

Certificate as to
location of
vessel.

(2) A Fisheries Officer shall in any certificate made under sub-section (1) state—

- (a) his name, address, official position;
- (b) the name and, if known, call sign of the fishing vessel concerned;
- (c) the date and time or period of time the vessel was in the place or area;
- (d) the place or area in which it is alleged the vessel was located;
- (e) the position fixing instruments used to fix the place or area stated in (d) and their accuracy within specified limits; and
- (f) a declaration that the Fisheries Officer checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly.

Validity and procedures for certificates.

61.—(1) Unless the contrary is proved, a document purporting to be a certificate given under section 59 or 60 shall be deemed to be such a certificate and to have been duly given.

(2) Any certificate given under section 59 or 60 shall be headed “Certificate Made under the Fisheries Resources Act” and no certificate issued under section 59 or 60 of this Act may be used as conclusive proof of the facts averred therein unless it is served with a copy of section 61 or 62 of this Act.

(3) An omission from or mistake made in any certificate issued under section 59 or 60 shall not render it invalid unless the court considers such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced thereby.

(4) Where in any proceedings a certificate made under section 59 or 60 of this Act is produced to the Court, the certificate shall be *prima facie* evidence of the facts therein unless the contrary is proved.

Photographic evidence.

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

(2) The presumption set out in sub-section (1) above shall only arise if—

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

(3) A Fisheries Officer who takes a photograph of the kind described in sub-section (1) may give a certificate appending the photograph stating—

- (a) his name, address, official position, country of appointment, and provision under which the officer is appointed;
- (b) the name and call sign, if known, of any fishing vessel appearing in the photograph;
- (c) the model of the camera, watch or clock or other instruments supplying the date and time and the position fixing instrument and a declaration that the officer checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with sub-section (2)(b) and that they all appeared to be working correctly;
- (d) the matters set out in sub-section (2)(a);
- (e) the accuracy of the fixing instrument used within specified limits; and
- (f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Sections 59 or 60 shall apply to a certificate given under this section as if it had been a certificate given under those sections.

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

General
presumptions.

(2) Where, in any legal proceedings under this Act, the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement

vessel or aircraft as being the place in which the event took place shall be *prima facie* evidence of the place in which the event took place, unless the contrary is proved.

(3) *Prima facie* evidence of an entry in a logbook or other official record, digital or otherwise, of an enforcement vessel or aircraft may be given by the production of a written copy or extract of the entry certified by a Fisheries Officer as a true copy of accurate extract.

(4) For the purposes of any proceedings under this Act, the act or omission of any member of the crew of a fishing vessel while aboard that vessel or engaged in fishing activity related to that vessel shall be deemed to be also that of the master of the vessel.

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

(6) Where in any legal proceedings for an offence under this Act—

- (a) a Fisheries Officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken in a specified area of the fisheries waters; and
- (b) the Court considers that, having regard to that evidence the grounds are reasonable,

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

(7) In any proceedings for an offence against this Act, an allegation made by the informant in any information or charge relating to whether or not a person was the master of any vessel shall be presumed to be true in the absence of proof to the contrary.

(8) For the purposes of this section, enforcement vessel means any means of conveyance used by a Fisheries Officer in the carrying out of the provisions of this Act.

Presumption as to authority.

64. A return, log, record or other information purporting to be made, kept or furnished by or on behalf of a person shall, for all purposes of this Act, be deemed to have been made, kept or furnished by that person or by that person's authority unless the contrary is proved.

Strict liability.

65.—(1) In any prosecution for any offence against this Act it shall not be necessary for the prosecution to prove that the defendant intended to commit an offence.

(2) It shall be a defence in any such prosecution if the defendant proves—

- (a) that the defendant did not intend to commit the offence; and
- (b) that
 - (i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
 - (ii) in any case where it is alleged that anything prohibited was done, that the defendant took all reasonable steps to ensure that it was not done.

66. Where a body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate is liable for the commission of that offence if it is proved that the act that constituted the offence took place with the person's authority, permission, or consent, or that the person knew or should have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Liability of
Directors and
Managers.

67.—(1) Where a person, in this section referred to as the “principal”, is required by or under this Act to—

- (a) keep any account, log or record;
- (b) furnish any return, log or information;
- (c) complete any form; or
- (d) take any action in relation to the keeping of any account, log or record or the furnishing of any return, log or information or the completing of any form,

Liability of
principal for
actions of agent
in relation to
records and
returns.

every act or omission of a person acting or purporting to act as agent for the principal in respect of any such requirement shall be deemed for the purposes of this Act to be the act or omission of the principal, unless the principal proves that the person purporting to act as agent had no authority, either express or implied, to act as the principal's agent for the purpose of keeping any account or record, or furnishing any return or information, or completing any form, or taking any action in respect of such matters, as the case may be.

(2) A defence specified in section 65 is available to a principal prosecuted in respect of the act or omission of an agent if the principal satisfies the Court that, having regard to—

- (a) any likely or possible benefit or detriment arising to the principal from the act or omission in respect of which the prosecution is brought if the alleged offence had remained undetected;
- (b) the purpose or motive of the agent whose act or omission it was;
- (c) the relationship between the principal and the agent whose act or omission it was, or between the principal and a person appearing or likely to benefit from the alleged offence;
- (d) where the principal is a body corporate, whether or not a person responsible for or closely associated with the management of the body corporate appears to have benefited from the act or omission, or would have been likely to so benefit if the alleged offence had remained undetected; and
- (e) any action taken by the principal, once aware of the act or omission, in respect of the agent whose act or omission it was or a person appearing likely to benefit from the alleged offence it would be in the interests of justice to allow the principal the benefit of any defence provided for in section 65 (2) of this Act.

(3) For the purposes of this section a person may act as an agent for a principal whether or not that person is employed by the principal and whether or not acting for reward.

Liability of companies and persons for actions of officers and employees.

68.—(1) Every act or omission of any officer or employee of a person, or of the master or any member of the crew of a vessel that is owned, chartered or leased by the person for the purpose of engaging in fishing, shall be deemed for the purposes of this Act to be the act or omission of the person.

(2) Subject to sub-section (3), any defence specified in section 65 (2) of this Act in relation to a prosecution under this Act is available to a person only to the extent that it can be proved in respect of the officer, employee, master, or crew member in relation to whose act or omission the prosecution is brought.

(3) A defence specified in section 65 (2) of this Act is available to a person prosecuted in respect of the act or omission of a person referred to in sub-section (1) if the person satisfies the Court that, having regard to—

- (a) any likely or possible benefit or detriment arising to the person from the act or omission in respect of which the prosecution is brought if the alleged offence had remained undetected;
- (b) the purpose or motive of the person whose act or omission it was;
- (c) the relationship between the person and the person whose act or omission it was, or between the person and a person appearing or likely to benefit from the alleged offence;
- (d) where the person is a body corporate, whether or not a person responsible for or closely associated with the management of the body corporate appears to have benefited from the act or omission, or would have been likely to so benefit if the alleged offence had remained undetected; and
- (e) any action taken by the person, or, where the person is a body corporate, by a person responsible for its management, once aware of the act or omission, in respect of the person whose act or omission it was or a person appearing or likely to benefit from the alleged offence,

it would be in the interests of justice to allow the person the benefit of any defence provided for in section 65 (2) of this Act.

69.—(1) No person shall destroy, throw overboard, conceal or abandon any fish, fish product, fishing gear, net or other fish appliance, log, return, record, document, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid seizure or the detection of an offence against this Act.

Tampering with evidence.

(2) A person who contravenes sub-section (1) commits an offence and is liable on summary conviction—

- (a) in respect of a foreign fishing vessel, to a fine not less than five thousand dollars nor more than one hundred and fifty thousand dollars;
- (b) in respect of a local fishing vessel, to a fine not less than two thousand dollars nor more than one hundred thousand dollars or to imprisonment to a term not less than six months nor more than two years or to both fine and imprisonment.

Liability of master of vessel.

70. Where an offence against this Act has been committed by a person on board or employed on a fishing vessel, the master of the vessel is also liable for that offence.

Forfeiture and suspension of fishing rights, licences, etc.

71. Where a person is convicted of an offence against this Act the court, in the first instance may, and on second or subsequent conviction shall, forfeit or suspend for such period as the court considers appropriate, any applicable fishing right, licence, authorization, or permit.

Power of Fisheries Officers to undertake prosecutions.

72.—(1) The Fisheries Administrator may undertake prosecutions in respect of offences against this Act or any regulations made hereunder, and may authorize in writing a Fisheries Officer to undertake such prosecutions.

(2) Prosecutions involving any foreign fishing vessel or in respect of the use by a Belizean national of a vessel registered in another state shall require the prior consent of the Director of Public Prosecutions.

Damage to the marine ecosystem.

73. In determining the appropriate penalty to be applied in respect of a particular offence involving fishing under this Act, a court may take into account the damage done to the marine ecosystem and to the long-term sustainability of the marine living resources, as well as the loss of future use, and any other applicable consideration, wherever the offence may have been committed.

PART XVI

Sale, Release and Forfeiture of Retained Property

Forfeiture of property on conviction.

74.—(1) On the conviction of a person for an offence against this Act for which the maximum penalty is a fine of two thousand dollars or more, the Court may, in addition to imposing any fine, order that the following shall be forfeited to the Government unless the Court for special reasons relating to the offence thinks fit to order otherwise—

- (a) any property used in respect of the commission of the offence (whether or not seized pursuant to section 48 of this Act);
- (b) any fish found on board any foreign vessel or at the time it was seized or detained pursuant to this Act and in any other case any fish in respect of which the offence was committed (whether or not seized pursuant to section 50 of this Act);

- (c) any proceeds from the sale of such property or fish pursuant to section 49 of this Act; and
- (d) any fishing gear in respect of which the offence was committed.

(2) On the conviction of a person for an offence against this Act (not being an offence referred to in sub-section (1) or sub-section (3)), the Court may, in addition to imposing any fine, order that any of the following shall be forfeited to the Government—

- (a) any property used in respect of the commission of the offence (whether or not seized pursuant to section 48 of this Act);
- (b) any fish in respect of which the offence was committed (whether or not seized pursuant to section 48 of this Act);
- (c) any proceeds from the sale of such property or fish; and
- (d) any fishing gear in respect of which the offence was committed (whether or not seized pursuant to section 48 of this Act).

(3) On the conviction of a person for an offence against this Act, for which the maximum penalty is a fine that exceeds two thousand dollars, the Court may, in addition to imposing any fine, order that any of the following shall be forfeit to the Government—

- (a) any fish in respect of which the offence was committed;
- (b) any proceeds from the sale of such fish; and
- (c) any fishing gear in respect of which the offence was committed (whether or not seized pursuant to section 48 of this Act).

75. Upon the making of an order for forfeiture under this Act, the Court may, upon application of the Fisheries Administrator, make an order that any bond or security given in respect of that forfeit property or fish shall be applied as follows and in this order—

- (a) the discharge of the property or fish ordered forfeited under this Act;

Application of
bond, etc.

- (b) the payment of all fines or penalties imposed in respect of the offences giving rise to the forfeiture ordered;
- (c) the discharge of all orders for restitution of any loss, damages or costs made under this Act.

Removal of
seized items.

76. Where any property or other item held or forfeited under this Act has been unlawfully removed from the custody of the Government, it is liable to seizure at any time within Belize or the fisheries waters.

Disposal of
forfeited items.

77.—(1) Any property, fish or other item ordered to be forfeited under this Act, at the expiry of the time limited for appeal and if no appeal is lodged, may be—

- (a) retained;
- (b) leased;
- (c) donated to a charitable organization;
- (d) destroyed; or
- (e) sold at current market prices by the Government of Belize
 - (i) by tender; or
 - (ii) by agreement approved by the Fisheries Administrator,

provided that if such forfeited item is sold by the Government of Belize the owner or apparent owner prior to forfeiture shall be afforded a reasonable opportunity to bid on or purchase such property.

(2) Any property, fish or other item seized under this Act or any monies held pursuant to this Act but not forfeited in any legal proceedings may be held by the Government until all fines, orders for restitution or costs and penalties imposed under this Act have been paid and failing payment within the time allowed be sold and the balance of the proceeds released after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale.

(3) The Fisheries Administrator or a person acting on his or her behalf shall not be liable in any way for any costs incurred or damages sustained as of a decision taken under sub-section (1).

(4) The proceeds of any sale of any item forfeited in accordance with this section shall be deposited into the Consolidated Revenue Fund.

Sale of
perishable
items.

78.—(1) A perishable item, including fish, fish product, which has been seized or confiscated pursuant to this Act shall be subject to the disposition of the Fisheries Administrator, who may—

- (a) decide to sell or authorize the sale of such item; or
- (b) sell or authorize the sale of such item or otherwise dispose of the item at such time and place as he shall determine,

and the proceeds from such sale if any, shall be deposited in the Consolidated Revenue Fund.

(2) The Fisheries Administrator shall notify the owner or apparent owner of any perishable item seized of the intended sale in accordance with sub-section (2), and such owner or his nominee may be present at the sale.

(3) Where the ownership of any item cannot be ascertained at the time of seizure, it shall be forfeited and disposed of as directed by the Fisheries Administrator after ninety (90) days from the date of seizure if, within that time, it has not been possible to establish the ownership of the item.

(4) A *bona fide* purchaser for value without notice, of any item sold under this section shall derive good and unencumbered title in respect of that item.

(5) Subject to sub-section (1), all items seized pursuant to section 48 and the proceeds from the sale of such items shall be held in the custody of the Fisheries Administrator until—

- (a) a decision is made not to lay any information or charge in respect of the alleged offence for which the item was seized;
- (b) the completion of proceedings in respect of the alleged offence for which the item was seized in instances where a charge or information is laid; or
- (c) the Court has issued an Order in relation to such proceeds.

(6) The decision whether or not to lay an information or charge in respect of an alleged offence for which an item seized under section 48 shall be made as soon as reasonably practicable after the item is seized, taken possession of, or detained.

(7) The Fisheries Administrator, or a Fisheries Officer lawfully exercising any power under this Act, is not liable for any spoilage or

deterioration in the quality of any fish or other item seized, taken possession of or detained.

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

79. The Government is not liable to a person for any loss, damage to, or deterioration in the condition of, any property or other item while in the custody of the Government under this Act.

Removal of item in custody.

80. A person who removes a vessel, vehicle, aircraft or other item held in the custody of the Government under this Act commits an offence whether or not he knew the vessel, vehicle, aircraft or other item was held in the custody of the Government for the purposes of this Act, and is liable on summary conviction to a fine not less than fifty thousand dollars nor more than two hundred and fifty thousand dollars or to imprisonment for a term not exceeding three years or to both fine and imprisonment.

Release of seized items upon bond, etc.

81.—(1) A person from whom any item was seized or the owner or person entitled to possession of the item seized pursuant to this Act may, within 60 days of such seizure apply to the Court for the release of the item.

(2) Upon receipt of an application under sub-section (1), the Court may order, unless the vessel, property or other item is required as an exhibit in court or reasonably required for any further investigation of fisheries offences—

- (a) the payment into court of a bond, surety or other security having regard to—
 - (i) the fair market value of the vessel, property or other item and catch on board;
 - (ii) the maximum fine or fines provided for the offences charged or likely to be charged; and
 - (iii) the costs likely to be recovered by the prosecution if a conviction is entered; and
- (b) the release of the vessel, property or other item, upon receipt of the bond, surety or other security referred to in subparagraph (a),

and may require such conditions for such release as it sees fit.

(3) In the event of an appeal from an order of forfeiture, the Court may continue any such bond, surety or other security deposited in accordance with sub-section (4) during the pendency of the appeal and any retrial or rehearing on remand or may require additional security to be deposited with the court.

(4) Exoneration of such bond, surety or other security shall be conditional upon the return of the released item to the court without any impairment of its value, or until any final proceedings under the Act have been disposed of or discontinued, and any fines, penalties or other determinations have been paid.

(5) A vessel, property or other item seized under this Act, or where a security has been paid under sub-section (4), the security, shall be held until any proceedings under this Act have been disposed of or discontinued, and any fines, penalties or other determinations imposed have been paid.

(6) Where a bond has been paid under sub-section (4) and the vessel or property has been released—

- (a) an order for forfeiture under this Act shall operate as an order for the forfeiture of the sum paid in respect of the value of the vessel or property;
- (b) the payment of any fine or penalty ordered upon conviction shall be made from the security; and
- (c) any order for costs shall be applied against the security.

82.—(1) Where a person to whom an item is released fails to comply with the conditions of any bond or with any condition specified by the Fisheries Administrator—

Failure to
comply with
conditions of
bond.

- (a) the item may be re-seized at any time at the direction of Fisheries Administrator;
- (b) the provisions of this section shall apply to the property as if it had been seized pursuant to section 48;
- (c) the Fisheries Administrator may apply to the Court for an order for estreat of the bond;
- (d) where the Fisheries Administrator so applies, the Registrar shall fix a time and place for the hearing of the application, and shall, not less than seven (7) days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place so fixed;
- (e) if on the hearing of such application it is proved to the satisfaction of the Court that any condition of the bond has not been kept, the Court may make an order to escheat the bond thereby on whom the notice is proved to have been served in accordance with this sub-section; and

- (f) any penalty payable in accordance with this sub-section shall be recoverable as if it were a debt.

Release of seized items upon decision not to proceed, acquittal, and absence of forfeiture order.

83.—(1) Where any item has been seized under this Act, upon—

- (a) a decision being made not to lay an information or charge;
- (b) the acquittal of a person charged with all offences with all the offences for which the item is subject to forfeiture; or
- (c) the final disposition of all offences for which the item is subject to forfeiture, without any order for forfeiture have being made in accordance with this Act,

such item, or the proceeds from the sale of such item, shall, subject to sub-section (2), be forthwith released from the custody of the Fisheries Administrator to the person entitled thereto.

(2) The Court may direct that the release of any item, or proceeds from the sale of such item under sub-section (1) shall be contingent upon all fines, penalties, orders for costs and other determination imposed by in respect of any of any offence having been paid, and failing payment within such time allowed, such item be sold and the balance of the proceeds returned to the owner, his or her nominee or in the absence of the owner or any nominee, to the apparent owner in accordance with this Act after deducting all fines, penalties, orders, costs and other determinations under this Act and the costs for the sale.

(3) Notwithstanding any provisions in this section, where a Fisheries Officer who at the time of seizure returns to the water any fish seized pursuant to this Act that the officer believes to be alive, shall not be under any civil or criminal liability to the person from whom the fish was seized in the event of a decision being made not to lay an information or charge in respect of the fish, or of the person being acquitted of the charge.

Arrest and detention of foreign fishing vessels.

84.—(1) In cases of arrest or detention of a foreign fishing vessel for a contravention of this Act, the Fisheries Administrator shall promptly notify the flag State of the vessel, through appropriate channels, of the action taken and of any penalties subsequently imposed.

(2) A foreign fishing vessel and its crew arrested for the contravention of any provision of this Act that governs any act of fishing or fishing related activity shall be promptly released upon the posting of a reasonable bond or other security.

PART XVII

Summary Administrative Proceedings

85.—(1) The Fisheries Administrator may, after consultation with the Minister and the written consent of the Director of Public Prosecutions, proceed administratively against a person who has been charged with a contravention of this Act.

Decision to submit to summary administrative proceedings.

(2) The Fisheries Administrator shall promptly notify the person charged that administrative proceedings may be commenced against that person, within 24 hours of receiving such notification.

(3) Where the person charged chooses to proceed administratively, that person shall notify the Fisheries Administrator in writing that he—

- (a) admits to having committed such violation; and
- (b) consents to summary administrative proceedings after being fully informed about these proceedings.

(4) Upon notifying the Fisheries Administrator of his choice under sub-section (3), the person charged shall—

- (a) not engage in any activity within the scope of this Act until the penalty has been paid in full; and
- (b) be deemed to have consented to any seizure which took place in accordance with this Act in relation to the violation subject to the Summary Administrative Proceedings, and to have waived any right to a hearing in the judicial process.

(5) Upon receiving the notification given under sub-section (3), the Fisheries Administrator or his designee may handle this matter in accordance with this Part, in consultation with the Director of Public Prosecutions.

(6) Where the person fails to respond to the Fisheries Administrator written notice within 24 hours, the Fisheries Administrator shall refer the matter to prosecution.

86.—(1) The Fisheries Administrator may, where the person charged has fulfilled the conditions of section 85, dispose of such violation by causing a Compounding Agreement to be drawn up by the Attorney General to

Summary administrative proceedings

formalize the terms and conditions for the Fisheries Administrator to accept from such person, on behalf of the Government, an administrative penalty, the amount of which shall—

- (a) not exceed the maximum fine or penalty prescribed under the Act, plus the fair market value of any fish caught illegally;
- (b) not be less than the minimum level of fine for or penalty described under the Act for the offence for which he was charged before the decision of the Fisheries Administrator to proceed administratively; and
- (c) where the person charged has committed the same or a similar offence in the past, be an amount not less than the fine or determination previously set plus an additional ten per cent.

(2) The compounding of an offence under this section shall be valid on the payment of the fine or penalty and the notification in writing upon payment, under the signature of both parties, to the Supreme Court.

(3) Summary Administrative Proceedings shall be null and void if the full amount of the penalty as determined under sub-section (1) is not paid within 3 working days of the notification of such penalty assessment to the person subject to the proceedings, and the matter shall immediately be referred to the Supreme Court.

(4) On payment of the penalty in full under this section, the Fisheries Administrator may order the release of any article, items, fish or fish products seized under this Act or proceeds of sale of such items, fish or fish products on such conditions as the Fisheries Administrator may determine.

(5) Where the person is unable to pay the determination in full, that person may enter into an agreement with the Fisheries Administrator and Attorney General providing that the determination shall be paid in such instalments as may be agreed.

(6) 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 for which he is charged has been compounded under this section.

(7) The Fisheries Administrator may order that any fishing gear or other appliance used in contravention of the Act and connected with the vessel be confiscated, but shall not impose a term of imprisonment in compounding an offence.

(8) A person aggrieved by a decision of the Fisheries Administrator under this section may appeal to the Supreme Court within thirty days of the decision of the Fisheries Administrator.

PART XVIII

Regulations

Regulations.

87.—(1) The Minister may make such regulations as may be necessary to give effect to the provisions of this Act.

(2) Without limiting the generality of sub-section (1), regulations made pursuant to this section may provide for all or any of the following—

- (a) measures for licensing and regulation of fisheries or any particular fishery or area under managed access, including the prohibition of specific activities in any designated fishery or area, any fishing gear as well as the establishment of closed seasons and size limits;
- (b) prescribing the criteria and conditions for the allocation or distribution of total allowable catch;
- (c) measures of the licensing, authorization or registration in respect of any vessel or class or category of vessels to be used for fishing, or any other purpose pursuant to this Act, including the form, issuance requirements, grounds for denial, terms and conditions and fees, charges, royalties, and other forms of compensation related to such licensing, authorization or registration;
- (d) licensing, authorization or registration in respect of any fisherman or class of fisherman, the operation of, and conditions and procedures to be observed by any fishing vessel while in the fisheries waters;
- (e) defining the conditions or circumstances under which Belize fishing vessels may be chartered;
- (f) providing for the installation and use of mobile transceiver units on an individual vessel or a category of vessels authorized to fish under this Act;
- (g) setting out the requirements for providing details of the beneficial ownership of vessels for the catching, loading,

- landing, handling, transshipping, transporting, possession and disposal of fish;
- (h) for the import and export of fish and fish products;
 - (i) the importation or prohibiting of importation of any exotic or invasive aquatic species and the prevention of the introduction to the wild of such species;
 - (j) the collection and marketing of aquarium fish;
 - (k) prohibiting the use of driftnets, trawling and bottom trawling and shark finning;
 - (l) regulating or prohibiting the use of self-contained underwater breathing apparatus;
 - (m) requiring the provision of statistical and other information related to fisheries;
 - (n) the installation, upkeep, and protection of devices that delimit marine and inland reserves and areas protected under this Act;
 - (o) regulating or prohibiting fishing for certain stocks or species needing special protection;
 - (p) regulating non-commercial fishing, but not limited to—
 - (i) issuing of permits for categories of non-commercial fishing, including but not limited to recreational fishing;
 - (ii) prescribing conditions for permits;
 - (iii) declaring bag limits, fishing seasons, fishing gears, fishing areas and list of species to be fished for this purpose; or
 - (iv) establishing fines and penalties,
 - (q) designation and regulation of landing sites;
 - (r) regulating test fishing, scientific research, bio-prospecting;
 - (s) regulating underwater filming, use of underwater equipment etc.;

- (t) the requirements for the process of development and the contents of any management plan, and the procedures to be followed in their implementation;
- (u) providing for the management, licensing and control of mariculture, including—
 - (i) the species which may be farmed;
 - (ii) the preparation of a mariculture plan by an applicant seeking to set up a mariculture facility;
 - (iii) the establishment of zones in which only certain types of mariculture activities can occur;
- (v) prescribing offences against the regulations and penalties for such offences;
- (w) prescribing fees;
- (x) prescribing any other matter which is required or authorized to be prescribed by this Act;
- (y) declaring priority areas; or
- (z) the Management of marine or inland reserves or fishery areas.

(4) Regulations made under this section may provide that a contravention thereof shall be punishable on summary conviction to a fine not exceeding one hundred and fifty thousand dollars or to a term of imprisonment not exceeding one year, or to both.

PART XX

General

88.—(1) No person shall fish or have in possession any of the species prescribed in the Schedule to this Act.

Prohibition on fishing for scheduled species. Schedule.

(2) The Schedule to this Act may be amended by the Minister by Order published in the *Gazette*.

(3) Notwithstanding sub-section (1), the Fisheries Administrator may authorize in writing the possession of any listed species for research, traditional or cultural use only.

Importation of fish taken, transported, etc., contrary to laws of another State.

89.—(1) A person who—

- (a) on his own account, or as partner, agent or employee of another person, attempts to, or lands, imports, exports, transports, sells, receives, acquires or purchases; or
- (b) causes or permits a person acting on his behalf, or uses a fishing vessel, to attempt to, or land, import, export, transport, sell, receive, acquire or purchase,

any fish taken, possessed, transported or sold contrary to this Act or the laws of another State commits an offence and is liable on summary conviction to a fine not less than five thousand dollars nor more than two hundred and fifty thousand dollars or to imprisonment for a term not less than one year nor more than five years, or to both fine and imprisonment.

General offence and penalty.

90. Unless otherwise stipulated under this Act, contravention of any section of this Act is an offence punishable on summary conviction by a fine of fifty thousand dollars or imprisonment for two years, or by both fine and imprisonment.

Conflict of laws. CAP. 4.

91.—(1) Subject to the Constitution, whenever the provisions of this Act or of any subsidiary legislation made under this Act are in conflict with any other law, rule or regulation relating to the management of fisheries resources and distant water fishing and matters related to both, the provisions of this Act and any subsidiary legislation made under the Act shall prevail.

(2) Whenever any powers conferred on the Department or the Commissioner of Police under this Act are similar to powers conferred on a municipal or other authority under any other law and there arises any conflict or dispute as to the exercise of such powers, the matter at issue shall be referred to the Minister who shall decide which authority shall exercise such powers and the manner in which powers shall be exercised.

(3) The decision of the Minister under this section is final.

Power to delegate.

92.—(1) The Minister or the Fisheries Administrator with the approval of the Minister, as the case may be, may, in relation to any particular matter or class of matters or to any particular part of Belize related to this Act, by

writing under seal, delegate to any officer or employee of the Department or to any prescribed person all or any of its powers under this Act.

(2) Every delegation under this section shall be revocable at will, and no delegation shall prevent the exercise of any power by the Minister or Fisheries Administrator.

93.—(1) Upon the commencement of this Act, the Fisheries Act and the Belize Fisheries Development Authority Act are repealed.

Repeal and savings. CAP. 210. Act. 19 of 2003.

(2) All Regulations, By-laws, Rules, Orders and other subsidiary legislation made under the repealed Acts, to the extent that they are not inconsistent with this Act, shall continue in force after the commencement of this Act, until repealed by Regulations, By-laws, Rules, Orders and other subsidiary legislation made hereunder.

(3) Notwithstanding the repeal, nothing in this Act shall affect any proceedings taken or a right which has accrued or a liability which has been incurred under the repealed Acts before the coming into force of this Act.

94. This Act comes into force on a day to be appointed by the Minister by Order published in the *Gazette*.

Commencement.

SCHEDULE

(Section 88)

Description: English Common Name	Scientific Name
All species of soft coral	all species of Gorgonacea, Alcyonacia
All species of hard or stony coral	all species Scleractinia,
Whale Shark	<i>Rhincodon typus</i>
Nurse shark	<i>Ginglymostoma cirratum</i>
Sawfish	<i>Pristis perotteti</i> and <i>Pristis pectinate</i>
Rays	All species of rays of the superorder Batoidea
Parrot fish	Scaridae, all species
Surgeon fish	Family: Acanthuridae, all species
Angel Fish	Family: Pomacanthidae, all species
Triggerfishes	Family: Balistidae, all species
Green turtle	<i>Chelonia mydas</i>
Hawksbill turtle	<i>Eretmochelys imbricata</i>
Loggerhead turtle	<i>Caretta caretta</i>
Leatherback turtle	<i>Dermochelys coriacea</i>
Seahorse	Hippocampus, all species
Sea star	Asteroidea all species
Dolphins:	Atlantic bottlenose dolphin - <i>Tursiops truncatus</i>
	Atlantic spotted dolphin - <i>Stenella frontalis</i>
	Rough-toothed dolphin - <i>Steno bredanensis</i>
	Spinner dolphin - <i>Stenella longirostris</i>
Manatee	<i>Trichechus manatus</i>
All other species of marine mammals (including migratory species)	
