

No.

FISHERIES ACT., 1991

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HOUSE OF REPRESENTATIVES.

A BILL ENTITLED—

AN ACT to provide for the management of fisheries
and the development of the fishing industry in The
Gambia and for matters connected therewith.

Enacted by the Parliament of The Gambia. Enactment

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PART I - Preliminary

1. This Act may be cited as the Fisheries Act
1991. Short title

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Interpreta-
tion

2. In this Act, unless the context otherwise requires -

"aquaculture establishment" means any area, enclosure, impoundment, premises, or structure set up or used for the cultivation of fish and includes any cultivated oyster or other shellfish bed, or raft of other structure used for the cultivation of oysters or other shellfish;

"aquatic animal" includes any aquatic mammal and its young, fry, eggs or spawn, shellfish, crustacean, or turtle;

"authorised officer" means a fisheries officer, police officer, officer of the Gambia Marine Unit, customs officer, or any other person authorized by the Director to execute any of the provisions of this Act, and for the purpose only of enforcing the provisions of Part VIII or any regulations made there under, any health officer appointed under the Public Health Act, 1989;

"Director" means the Director of Fisheries;

"export processing establishment" means any fish processing establishment, the products of which are intended wholly or partially for export from The Gambia;

"fish" means any aquatic animal, whether piscine or not;

"fisheries officer" means any officer appointed under Section 3;

"fishing" means fishing for, searching for, catching, taking or killing fish, by any method and includes the processing, storage, transshipment, refueling or supplying of other fishing vessels or any other activity in support of fishing operations;

"fishing vessel" means any vessel used for fishing or for the processing, storage, transshipment, refueling or supplying of other fishing vessels, or used for any other activity in support of fishing operations, except a vessel used for the transportation of fish or fish products as part of a general cargo;

"fisheries waters" means the inland waters, the territorial sea, the marine waters of The Gambia extending from a distance of 200 nautical miles from the baselines from which the territorial sea is measured and to the north that are within a line following the line of longitude $13^{\circ}35'36''$ N and to the south, that are within a line starting on the south bank of the River Allahein (or San Pedro), the coordinates of which are latitude $13^{\circ}03'51''$ N and longitude $16^{\circ}44'49''$ W; and from there southwest to a point the coordinates of which are latitude $13^{\circ}01'21''$ N and longitude $16^{\circ}45'19''$ W and from there in a northerly direction to a point the coordinates of which are longitude $13^{\circ}03'27''$ N and latitude $16^{\circ}45'22''$ W and thereafter along the parallel of latitude $13^{\circ}03'27''$ N, and any other marine waters over which sovereign rights and jurisdiction over the marine living resources may be exercised by The Gambia for the purposes of international law;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel;

"Fisheries Advisory Committee" means the committee established under section 5;

"licensing officer" means the Director, or any other fisheries officer authorized by the Director in writing to issue licences under this Act;

"local company" means a company incorporated under the laws of The Gambia and having its principal place of business in The Gambia;

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- (a) of which all of the shares are owned by; citizens of The Gambia or by a fishermen's cooperative society or other association of which all the members are citizens of The Gambia; or
- (b) which, in view of the substantial nature of the participation by citizens of The Gambia in the shareholding of the company or other benefits accruing to The Gambia, has been designated by the Minister by notice published in the Gazette as being a local company for the purposes of this Act;

"local fishing vessel" means a fishing vessel:

- (a) wholly owned by the Government of The Gambia, or by a public corporation or other statutory body established by or under the laws of The Gambia; or
- (b) wholly owned by one or more persons who are citizens of The Gambia; or
- (c) wholly owned by a local company;

"Minister" means the Minister responsible for the administration of this Act;

"processing" in relation to fish, includes cleaning, filleting, icing, freezing, canning, salting, smoking, cooking, pickling, drying or otherwise preserving or preparing fish by any method;

"processing establishment" means any premises or vessel on or in which any fish are processed or stored, but shall not include hotel restaurant or eating house, or any premises where fish are prepared or stored for sale by retail to the public;

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1968

"territorial sea" means the territorial sea of The Gambia as defined by the Territorial Sea and Contiguous Zone Act, 1968.

PART II - Administration

Director and
other fisheries
officers

3. (1) The Public Service Commission may appoint a Director and such other fisheries officers as may be necessary to carry into effect the provisions of this Act.

(2) The Director may, in writing, delegate the exercise of any or all of the powers and functions conferred upon him by this Act to any fisheries officer.

Fisheries mana-
gement and deve-
lopment plans

4. (1) The Director shall prepare and keep under continual review plans for the management and development of inland and marine fisheries in the fisheries waters.

(2) Each management and development plan shall be based on the best scientific information available and shall ensure the optimum utilization of the fisheries resources for the benefit of the people of The Gambia.

(3) Each fisheries management and development plan shall include:

- (a) an identification of the major fisheries or fisheries management areas concerned and the assessment of the present state of their exploitation;
- (b) a statement of the objectives to be achieved in the management and development of the fisheries or fisheries management areas;
- (c) the specification of any management and development measures to be taken and policies to be adopted with respect to the fisheries or fisheries management areas;
- (d) an indication of the main requirements for statistical information on fisheries and the means to be used to obtain such information;

- (e) the specification, where appropriate, of any licensing programmes to be followed for any fishery or fisheries management area, any limitations to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels; and
- (f) such other matters as may be necessary to provide for the proper management and development of the fisheries or fisheries management areas.

Fisheries
Advisory
Committee

5. (1) There is hereby established a committee to be known as the Fisheries Advisory Committee which shall comprise of

- (a) the Permanent Secretary, Ministry of Natural Resources, and the Environment as Chairman;
- (b) the Permanent Secretary, Ministry of Industry, Trade and Employment;
- (c) the Permanent Secretary, Ministry of Finance and Economic Affairs;
- (d) two representatives from the fishing community nominated by the Minister; and
- (e) the Director as Secretary.

(2) The Chairman may invite any person or institution to attend and participate in the proceedings of the Committee if in his opinion or on the advice of the other members of the Committee such person or institution possesses expert knowledge that may be useful to the Committee.

Functions
of Com-
mittee

6. The functions of the Fisheries Advisory Committee shall be -

- (a) to assist in promoting the development of the fisheries sub-sector;
- (b) to monitor important fisheries development projects and advise the Minister accordingly; and
- (c) to deal with such matters as may be referred to it by the Minister.

Quorum

7. (1) In the exercise of its powers and functions under this Act, the quorum of the Fisheries Advisory Committee shall be four.

(2) The Fisheries Committee shall in the conduct of its business determine its own rules of procedure.

PART III - Fisheries Development Measures

Director to promote the development of fisheries

8. The Director shall, in co-operation with such other departments of Government as may be necessary, and in accordance with any fisheries management and development plan prepared under section 4, promote the development of traditional and industrial fisheries and related industries in The Gambia, through -

- (a) the provision of extension and training services;
- (b) the provision of credit facilities;
- (c) the promotion of co-operation among fishermen;
- (d) the provision of infrastructure facilities;
- (e) the development of domestic and foreign markets for fish and fish products;
- (f) research and survey work;
- (g) the promotion of co-operation with neighbouring states regarding reciprocal fishing rights and joint development measures;
- (h) the promotion of joint venture arrangements with other countries or their nationals and such other arrangements providing for the transfer of technology and experience as may be necessary; and
- (i) the development of a locally based fisheries industry.

Fisheries Development Fund

9. (1) There shall be established a Fisheries Development Fund which shall consist of -
- (a) twenty percent of the proceeds of any fees paid for licences or permits issued under this Act;
 - (b) twenty percent of the proceeds of any out-of-Court settlement or the proceeds of sale of any article or thing forfeited in accordance with the provisions of this Act;
 - (c) twenty percent of any compensation paid by virtue of any fisheries agreement entered into with another country or organisation;
 - (d) such moneys as may be appropriated to it by Parliament; and
 - (e) such voluntary contributions as may be made to the Fund from whatever source.

(2) The Fund shall be ledged in a deposit account with the Accountant General and shall be administered by the Fisheries Advisory Committee which may authorise the Director to make such withdrawals as may be necessary to finance the activities identified under subsection (3).

(3) The proceeds of the Fund shall be used to promote the development of fisheries in The Gambia and, in particular, to promote small scale fisheries industries and co-operative enterprises.

(4) The Accountant General shall be responsible for preparing the accounts of the Fund which shall be audited by the Auditor General.

PART IV - Local Licensing Provisions

Application for licences

10. An application for a licence shall be made to the Director in such form as may be prescribed by regulation.

Licensing of fishing vessel

11(1) The Director may, upon application and payment of the prescribed fee, issue a licence for any local fishing vessel upon the approval of the Minister.

(2) Notwithstanding subsection (1) the Director shall not issue a licence in respect of a vessel unless such vessel:

- (a) is registered under the laws governing merchant shipping; and
- (b) is seaworthy and fit for the purpose of fishing and conforms with such requirements as may be applicable to such vessel under the laws governing merchant shipping, including requirements of navigation of safety equipment.

(3) A licence issued under this section shall be valid only for the species of fish and the type of fishing gear or method of fishing specified in the licence.

(4) The Minister may, by regulation, establish different categories or classes of fishing vessel and require that different fees be payable for, and different conditions be attached to, licences issued in respect of each category or class of fishing vessel.

Power to refuse to issue a licence 12. The Director may refuse to issue a licence for which application has been made, or refuse to renew a licence :-

- (a) where the applicant is unfit to hold such licence; or
- (b) where he considers it necessary in order to allow for the proper management of any particular fishery taking into account the terms of any fisheries management and development plan prepared under Section 4 and any general licensing instructions issued by the Director in implementation of that plan.

Power to suspend or cancel licence 13. Where the holder of a licence is convicted of an offence under the provisions of this Act or any regulations made thereunder, the Director may suspend the use of such licence for such period as he may think fit, or cancel such licence.

Appeals 14. Any person aggrieved by the refusal of the Director to issue or renew a licence, or by the suspension or cancellation of a licence already issued, may appeal against such refusal, suspension or cancellation within 14 days from the date of such refusal, suspension or cancellation.

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- Duration of licence 15. A licence shall, unless suspended or cancelled in accordance with section 13, be valid for a period of not more than one year.
- Non-transferability of licences 16. No licence issued to a local fishing vessel shall be transferable except with the written permission of the licensing officer endorsed upon the licence.
- Licence conditions 17. A person who is issued with a licence in respect of a vessel under this Part shall:-
- (a) comply with such requirements as the making of statistical returns or the collection of information as may be prescribed in any regulations;
 - (b) mark the vessel with such letters and numbers as may be assigned to that vessel by the licensing officer, in a manner prescribed by regulations made under this Act; and
 - (c) comply with navigation and safety equipment and such laws and regulations as may be applicable to a vessel under the laws governing merchant shipping.
- Fishing contrary to conditions in licence 18. A person who operates, or being the owner or charterer allows to be operated, a local fishing vessel in the fisheries waters, except under and in accordance with the conditions of a valid licence issued under this Act, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand dalasis, and in default to a term of imprisonment not exceeding three years.
- Lapse of licence where vessel ceases to be local 19. Where a local fishing vessel at any time ceases to be a local fishing vessel within the meaning of section 2 a licence issued in respect of that vessel shall cease to be valid forthwith.

 PART V - Foreign Licensing Provisions

fishing
foreign
vessel
without
licence

20. No foreign fishing vessel shall fish within the fisheries waters except in accordance with the provisions of Section 21, 22, 25 or 27.

onal
operation
Fisheries

21. (1) The Minister may on the advice of the Director, enter into arrangements or agreements with other countries in the region or with any competent regional organization, to provide for:

- (a) the harmonization of systems for the collecting of statistics, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;
- (b) the harmonization of licensing procedures and conditions in respect of foreign fishing vessels;
- (c) schemes for the issuance of fishing licences in respect of foreign fishing vessels and the recognition of licences issued by such country or organization, subject to such conditions as may be specified in the arrangement or agreement and to such additional conditions as the Minister may specify from time to time;
- (d) the taking of joint or harmonized enforcement measures in respect of foreign vessels contravening fisheries laws in the region;
- (e) the establishment and operation of fisheries management bodies;
- (f) the establishment of a regional register of fishing vessels; and
- (g) other cooperative measures, including measures for promoting the welfare of fishermen.

application.

23. An application for a foreign fishing vessel licence shall be made in such form as the Minister may by regulation prescribe.

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24. The Minister may by regulation prescribe the fees payable in respect of any foreign fishing licence, which may be fixed by reference to the size of the boat or its engine or the volume of the catch and the extent to which the catch, if any, is landed in The Gambia.

foreign fish-
ing vessel
licence

25. (1) The Director may, upon the approval of the Minister issue a licence in respect of a foreign fishing vessel authorising it to

(a) fish within the fisheries waters; and

(b) load, unload or tranship fish and supplies within the fisheries waters;

(2) A licence issued under subsection (1) shall be valid only in respect of the species of fish or type of fishing gear or method of fishing or period of time as may be specified in the licence.

(3) Where the holder of a licence is convicted of an offence under the provisions of this Act or any regulations made thereunder, the Director may suspend the use of such licence for such period of time as he may think fit, or cancel such licence.

(4) A licence issued under subsection (1) shall be valid for a period of not more than twelve months.

ditions

26. The Director may prescribe conditions to be observed by foreign fishing vessels in respect of which a licence has been issued, which may include, but shall not be limited to,

(a) conditions concerning the location, method and conduct of fishing operations;

(b) the size of catch allowed and the conservation measures to be adopted;

(2) For the purpose of giving effect to any arrangement or agreement entered into under subsection (1), the Minister may by Order published in the Gazette:

- (a) authorize any competent regional organization to issue fishing licences in respect of foreign fishing vessels on behalf of the Minister, within the limits set out in the Order;
- (b) exempt from any of the requirements of Section 26 any foreign fishing vessel or class of foreign fishing vessels holding a valid regional fishing licence issued by a competent regional organization.
- (c) prescribe the conditions to be observed by foreign fishing vessels exempted under paragraph (b) while fishing or navigating in the fisheries waters.

Fisheries
access
agreements

22. (1) The Minister may on the advice of the Director enter into fisheries access agreements with other states and associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing licences to vessels from those states or associations.

(2) The fishing licences allocated under agreements entered into under subsection (1) shall not authorize fishing which in total exceeds the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the fisheries plan.

(3) Any agreement entered into shall include a provision establishing the responsibility of the foreign state or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the provisions of this Act relating to fishing in the fisheries waters.

- (e) the landing, marketing and processing of the catch;
- (d) the placement of observers on board;
- (e) the construction of shore-based facilities;
- (f) the transfer of fisheries technology;
- (g) the carrying out of research or survey programmes;
- (h) the employment and training of Gambian fishermen and other personnel; and
- (i) the adequate protection of local and traditional fisheries.

Test fish-
ing opera-
tions

27. (1) The Director may, with the approval of the Minister, grant a licence to a foreign fishing vessel for a limited period for the purpose of testing the feasibility of commercial fishing operations.

(2) Any fish caught during the course of test fishing operations shall be disposed of in accordance with any conditions that may be attached to the issuance of a licence under subsection (1).

(3) A licence granted under subsection (1) in respect of a foreign fishing vessel shall not relieve the owner, master, or charterer of such vessel from any of the obligations imposed on foreign fishing vessels by this Act or any regulations made thereunder.

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- Fisheries research or survey
28. (1) The Minister may, on the submission of a satisfactory research or survey plan, authorise any vessel or person to undertake fisheries research or survey operation in the fisheries waters, and may exempt such vessel from the requirements of any fisheries management and conservation measures that may be prescribed under this Act.
- (2) The Minister may attach such conditions as may be necessary to any authorisation granted under subsection (1).
- Obligation to observe requirements of other laws
29. No licence issued in respect of a foreign fishing vessel, or approval to undertake test fishing operations, or authorisation to undertake fisheries research shall relieve that foreign vessel, its master or any member of its crew of any obligation or requirement imposed by any law concerning navigation, customs, immigration, fiscal, health, or other matters.
- Stowage of gear
30. (1) A foreign fishing vessel not authorised to fish under this Act, or being authorized is in a part of those waters where it is not authorized to fish, shall stow away its fishing gear in a manner prescribed by regulations;
- (2) Where a foreign fishing vessel is used contrary to subsection (1), the master, owner and charterer of such vessel shall each be guilty of an offence and shall jointly and severally be liable on conviction to a fine not exceeding two hundred and fifty thousand dalasis and in default to a term of imprisonment not exceeding four years.
- importation of fishing vessels
31. (1) No person shall import into The Gambia a vessel that is designed for or intended for use as a fishing vessel except with the prior written permission of the Director.
- (2) Any person, whether acting on his own behalf or on behalf of a company, who imports a vessel contrary to the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand dalasis and in default to a term of imprisonment not exceeding one year.

(3) This Section shall not apply to a foreign fishing vessel which temporarily enters The Gambia in the course of licensed fishing operations.

PART VI - Aquaculture

Promotion
of aquacul-
ture

32. The Director shall promote the development of aquaculture in The Gambia through such means as the carrying out of research and extension services and the promotion of markets for the products of aquacul-
ture.

Leasing
of public
lands

33. The Minister responsible for lands may on the request of the Minister provide suitable lands, for the purpose of establishing farms for the cultivation of oysters, shrimps, freshwater fish, or other aquaculture establishments.

Aquaculture
permits

34. (1) A licensing officer may, upon application therefore in the prescribed form and upon payment of the prescribed fee, issue a permit to any person authorizing such person to set up and operate the aquaculture establishment described in the permit in the area specified therein.

(2) Any permit issued under this Section in respect of any aquaculture establishment, including any oyster cultivation establishment whether based on land or at sea, shall confer upon the permit holder exclusive rights to harvest the products of the establishment within the area prescribed in the permit.

(3) Any conditions prescribed by a licensing officer in respect of any permit issued under this Section may include, but shall not be limited to,

- (a) conditions concerning the siting and construction of the establishment;
- (b) controls over the quality and sanitary condition of fish or fish products;

- (c) controls for the prevention of fish disease;
- (d) the escape of any species introduced into The Gambia for the purpose of aquaculture; and
- (e) conditions concerning the marketing of fish and fish products.

(4) The Director, in consultation with the authorities responsible for health may adopt schemes: -

- (a) for the sanitary control of the supply of oysters or other shellfish products to hotels, restaurants, shops or other premises where such products are sold by retail to the public or for consumption on the premises; and
- (b) requiring that any oysters or other shellfish supplied to such establishments shall undergo a specified procedure for depuration, purification and disintoxication.

(5) A person who fails to comply fully with schemes adopted under subsection (4) shall be liable to have his permit suspended or cancelled in respect of the establishment from which the supply of oysters or other shellfish products originated.

Offences
concerning
aquaculture

35. (1) Any person who sets up or operates an aquaculture establishment otherwise than under and in accordance with the conditions of a valid permit issued under this Part commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand dalasis and in default to a term of imprisonment not exceeding three years.

(2) Any person who, without the authority of the owner or occupier of an authorized aquaculture establishment, harvests the products of that establishment commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand dalasis or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

PART VII - Marketing and Processing

Marketing
regulation
schemes

36. (1) The Minister may, by regulation, establish fish marketing regulation schemes covering any prescribed area or areas.

(2) Any fish marketing regulation scheme adopted under this Section may include provision for regulating the landing of fish in the prescribed area, regulating the auctioning or other sale of fish, registering fish buyers and dealers and controlling the distribution of fish, whether for export or for local consumption.

Processing
establish-
ments

37. (1) A licensing officer may, upon application in the prescribed form and payment of the prescribed fees, issue to any person a permit to operate an export fish processing establishment.

(2) Any person who operates or causes or permits to be operated on his behalf any export fish processing establishment otherwise than under and in accordance with the conditions of a valid permit issued under subsection (1) commits an offence and shall be liable on conviction, to a fine not exceeding one hundred and fifty thousand dalasis and in default to a term of imprisonment not exceeding three years.

(3) The provisions of this Section shall not apply to any export fish processing establishment where fish is preserved solely by means of smoking or drying by traditional means.

(4) Notwithstanding subsection (3) the Minister may, by Order, extend the provisions of this Section to cover all export fish processing establishments or any category or type of export fish processing establishment.

Power to
make regu-
lations on
fish pro-
cessing

38. The Minister, in consultation with the Minister responsible for health, may make regulations:

- (a) establishing conditions for the construction and operation of fish processing establishments;
- (b) providing for the inspection of fish processing establishment and fish products;
- (c) establishing quality standards and standard methods of analysis and testing for fish and fish products; and
- (d) providing for licensing schemes relating to fish intended for export.

PART VIII— Prohibited fishing methods

Prohibited
methods of
fishing

39. (1) A person who —

- (a) 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 such fish more easily caught; or
- (b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in paragraph (a);

commits an offence and shall be liable on conviction to a fine not exceeding one million five hundred thousand dalasis and in default to a term of imprisonment not exceeding seven years.

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

Fisheries Act, 1991.

(3) Any person who lands, sells, receives, or is found in possession of, any fish, knowing or having reasonable cause to believe them to have been taken in contravention of the provisions of this Section commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand dalasis and in default to a term of imprisonment not exceeding five years.

Possession of prohibited gear, etc.

40. Any person who imports into or sells in The Gambia or uses for fishing or possesses or has on board any fishing vessel within the fisheries waters -

- (a) any fishing net or netting material, the mesh size of which is less than the minimum mesh size for that type of net prescribed in any regulations made under this Act; or
- (b) any other net or fishing gear or fishing appliance that has been prohibited under any regulations made under this Act;

commits an offence and shall be liable on conviction -

- (i) in the case of artisanal fishermen or vessels, to a fine not exceeding five thousand dalasis and in default to a term of imprisonment not exceeding one year; and
- (ii) in the case of industrial fishing vessels, to a fine not exceeding two hundred and fifty thousand dalasis and in default to a term of imprisonment not exceeding four years.

PART IX - Powers of authorized officers

Powers to stop, board, inspect, etc.

41. For the purposes of enforcing this Act, any authorized officer may, without warrant:

- (a) stop and board any fishing vessel within the fisheries waters or any local fishing vessel outside such waters, and make any

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examination concerning that vessel, its equipment, fishing gear, crew, or fish carried on board that vessel;

- (b) require to be produced, examine and take copies of any licence, permit, certificate or other document, required under this Act or any regulations made thereunder; and
- (c) require to be produced and examine any fishing gear, nets, or other fishing appliance, whether at sea or on land.

Powers of entry, seizure, arrest, etc.:

42. (1) Any authorized officer, where he has reasonable grounds to believe that an offence has been committed under the provisions of this Act or any regulations made thereunder, may, without a warrant

- (a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reason to believe that fish illegally taken are being stored;
- (b) take samples of any fish found in any vessel or vehicle inspected under Section 41 or in any premises searched under paragraph (a) of this subsection;
- (c) arrest any person whom he has reason to believe has committed such offence;
- (d) seize any vessel (including its fishing gear, furniture, appurtenances, stores and all cargo), vehicle, fishing gear, net, or other fishing appliance which he has reason to believe has been used in the commission of such offence, or in respect of which the offence has been committed;
- (e) seize any fish which he has reason to believe has been caught in the commission of an offence, or is being possessed in contravention of this Act or any regulations made thereunder;

- (f) seize any explosive, poison or other noxious substance which he has reason to believe has been used or is being possessed in contravention of Section 39;
- (g) following hot pursuit as recognized by international law and commenced within the fisheries waters, stop, board and search outside those waters any foreign fishing vessel which he believes has been used in the commission of an offence within those waters or in relation to which he believes such offence has been committed and bring such vessel and all persons and things on board it within those waters.

(2) Any vessel seized under subsection (1) and the crew thereof shall be taken to the nearest or most convenient port, and dealt with in accordance with the provisions of this Act.

(3) A written receipt shall, wherever feasible, be given for any article or thing seized under subsection (1) and the grounds for such seizure shall be stated in such receipt.

(4) Any person arrested under the provisions of this Section shall be taken as soon as practicable before a court to be dealt with according to the law.

Fish and
other
perishable
articles

43. Any fish or other articles of a perishable nature seized under the provisions of Section 42 may, on the direction of the Director, be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of Part X of this Act.

Obstruction
of authorized
officers

44. A person who,

- (a) wilfully obstructs or assaults any authorized officer in the exercise of any of the powers conferred on him by this Act; or
- (b) fails to comply with any lawful enquiry or requirement made by any authorized officer in accordance with the provisions of Section 41,

commits an offence and shall be liable on conviction to a fine not exceeding five thousand dalasis or to a term of imprisonment not exceeding one year, or to both such fine and imprisonment.

Authorized officers to declare office

45. (1) An authorized officer not in uniform when acting under the provisions of this Act shall on demand, declare his office and produce to any person against whom he is taking action such identification or written authority as may be reasonably sufficient to show that he is an authorized officer for the purpose of this Act.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any authorized officer not in uniform, if such authorized officer refuses, on demand being made by such person, to declare his office or produce such identification of written authority.

Authorized officers not liable

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

PART X - General Penalties and Legal Proceedings

General penalties

47. A person who contravenes any provisions of this Act or any regulation made thereunder commits an offence and shall, if no specific penalty is prescribed therefor, be liable on conviction to a fine not exceeding five hundred thousand dalasis and in default to a term of imprisonment not exceeding five years.

Penalties in respect of foreign fishing vessels

48. (1) Where a foreign fishing vessel is used for fishing without a valid licence issued under Section 20, 21, or 25 or without a licence to undertake test fishing operations in accordance with Section 27 or undertakes fisheries research without approval given under Section 28, the master, owner or charterer of such vessel shall each be guilty of an offence and shall jointly and severally be liable on conviction to a fine not exceeding two million dalasis and in default to a term of imprisonment not exceeding eight years.

(3) Notwithstanding subsections (1) and (2) where any explosive, poison or other noxious substance is seized under Section 42, the Director may order the master, owner or charterer of the vessel from which such explosive, poison or other noxious substance has been seized to dispose of such explosive, poison or other noxious substance in such manner as the Director may determine.

Power of
court to
order for-
feiture

55. Where a person is convicted of an offence under this Act or any regulations made thereunder, or where the court, on referral of any claim under Section 54 finds that an offence has been committed under this Act or any regulations made thereunder, the court, in addition to any other penalty imposed;

- (a) may order that any fishing vessel (including its fishing gear, furniture, appurtenance, stores, and all cargo), fishing gear, net or other fishing appliance used in the commission of such offence be forfeited and that any licence or permit issued under this Act or any regulations made thereunder be suspended for such period of time as the court may think fit, or be cancelled;
- (b) shall order that any fish caught in the commission of such offence or the proceeds of sale of any such fish under Section 43, any fishing net or other fishing gear or fishing appliance possessed or carried on board any fishing vessel in contravention of Section 39, be forfeited;
- (c) shall order, in the case of any offence under Section 30, that any fishing gear, net or other fishing appliance carried on board the offending vessel, be forfeited; and

- (2) shall order, unless it considers for reasons to be recorded by the court that it would be unjust so to do, on a second or subsequent offence under section 30, that the offending vessel (including its fishing gear, furniture, appurtenances, stores, and all cargo) be forfeited.
- Second or subsequent offence 56. Except as provided by Section 55 (d), a second or subsequent offence under this Act or any regulations made thereunder shall be punishable by a fine not exceeding twice the amount prescribed for the first such offence or, where imprisonment is provided for, by imprisonment for a term not exceeding five years, or by both such fine and imprisonment.
- Presumption 57. All fish found on board any fishing vessel which have been used in the commission of an offence under this Act or any regulations made thereunder shall be presumed to have been caught in the commission of such offence unless the contrary is proved.
- Disposal of forfeited goods 58. Any vessel (including its fishing gear, furniture, appurtenances, stores and all cargo), fishing gear, net, or other fishing appliance, explosive, poison or other noxious substance, and any fish or the proceeds of sale of fish deemed or ordered forfeited under Section 54 or 55 shall be disposed of in such manner as the Director may think fit.
- Proof of cause of death or injury of fish 59. Where the cause of death, stunning, disabling or other injury of any fish is in question, a certificate purporting to be signed by a fisheries officer shall be prima facie evidence in any court of the cause of such death, stunning, disabling or other injury.
- Jurisdiction of the courts 60. (1) An offence committed outside the fisheries waters, by a citizen of The Gambia, or a person ordinarily resident in The Gambia, or a person on board a local fishing vessel, shall be an offence triable in any court in The Gambia as if such offence had been committed within the local limits of the jurisdiction of such court in The Gambia.
- (2) Notwithstanding subsection (1), a person who commits an offence outside the fisheries waters shall only be charged for such offence in The Gambia if reciprocal arrangements in that regard exist between The Gambia and the country in which the offence is committed.

PART XI - General provisions

Minister's
power to
make regu-
lations

61. The Minister may make regulations generally for the proper management, development, and regulation of fisheries, and for the implementation of the provisions and purposes of this Act, and may in particular make regulations for all or any of the following purposes:

- (a) to conserve, manage, or protect fish resources, or particular species of fish by such means as the establishment of closed seasons, the prescription of limits on the amount, size or weight of fish caught and retained, or traded, the prescription of minimum mesh sizes, the designation of prohibited fishing areas for all fish or certain species of fish or methods of fishing, and the prohibition of certain methods of fishing;
- (b) to provide for the licensing, leasing, regulation, and management of any particular fishery;
- (c) to regulate the conduct of fishing operations in the fisheries waters;
- (d) to establish the conditions to be observed by foreign fishing vessels including the stowage of fishing gear while within the fisheries waters;
- (e) to specify the procedures to be followed for foreign capital investment and joint venture proposals in fisheries and the conditions to be fulfilled by any such investment;
- (f) to regulate the landing of fish and to prescribe and provide for the management and control of fishing ports and fish landing areas;

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- (g) to control the handling and transportation of fish and fish products;
 - (h) to establish marketing regulation schemes and to organize and regulate the marketing and distribution of fish and fish products;
 - (i) to prohibit or control the importation of live fish and, in particular, non-indigenous species, and the exportation of live fish;
 - (j) to promote and control the cultivation of fish, including the regulation of the construction of aquaculture establishments;
 - (k) to provide for the appointment of local agents for foreign fishing vessels;
 - (l) to provide for the placement of observers on board foreign fishing vessels;
 - (m) to provide further for the composition and responsibilities of the Fisheries Advisory Committee;
 - (n) to prescribe the conditions and procedures of application for any licences, permits, or other documents required under this Act or any regulations made thereunder, their form, and the fees payable therefor ;
 - (o) to improve the collection of statistics and to require any person engaged in fishing, marketing, processing, or aquaculture, including any fish dealer, to supply such information as may be necessary for the effective management and development of fisheries;
 - (p) to prescribe the powers to be exercised by fisheries officers; and
 - (q) to prescribe anything that may be prescribed under this Act.

Repeal
and
Savings

62. (1) The Fisheries Act, 1977, (No. 17 of 1977) is hereby repealed.

(2) Notwithstanding subsection (1) any licence, permit or other authorization or any regulations, orders, notices or directives issued or made under the Fisheries Act, 1977, (No. 17 of 1977) or under any fisheries agreement, shall until revoked continue to have force and effect as if they were issued or made under this Act.

OBJECTS AND REASONS

1. The Bill seeks to remove the deficiencies of the Fisheries Act, 1977. This has become necessary because of the significant growth in both local and foreign industrial fishing of high value species, and because of the rise in poaching incidents in our waters. The Bill redefines some principal terms and advises the administration and management provisions; the provisions relating to licences and permits and also fines and penalties.
2. The phrase 'fisheries waters' is redefined to include the inland and internal waters as well as latitudes and longitudes for the Northern and Southern boundaries. This provides an accurate delineation of the 200 nautical mile.
3. It is proposed to increase all existing fines and penalties for effective deterrence and to make good the losses from inflation.
4. The Bill proposes a general penalty clause for violation of any provision of the Act, if no specific penalty is prescribed therefore, such an offence will attract a fine of D500,000.00 or 5 years imprisonment.

SARJO TOURAY
MINISTER OF WATER RESOURCES,
FORESTRY & FISHERIES