

THE FISHING INDUSTRY ACT

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FISHING INDUSTRY

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SCHEDULE

THE FISHING INDUSTRY ACT

[1st October, 1976.]

Act
17 of 1975,
33 of 1991
S. 22.*Preliminary*

1. This Act may be cited as the Fishing Industry Act. Short title.

2. In this Act— Interpreta-
tion.

“fish” includes shell fish, crustaceans and marine or fresh water animal life;

“Fishery Inspector” means any game warden approved as such under the Wild Life Protection Act, any member or officer of the Constabulary Force, any soldier, non-commissioned officer, warrant officer or officer of the Jamaica Defence Force or any public officer designated a Fishery Inspector by general notice;

“fishing” means catching or attempting to catch any fish in any manner whatsoever and includes killing, gathering or destroying any fish;

“fishing boat” or “boat” means any canoe, floating platform, decked boat, carrier vessel, vessel equipped with an outboard or an inboard motor, or other vessel used for the purpose of fishing;

“Licensing Authority” means the public officer designated by the Minister pursuant to section 4, and includes any person carrying out such functions of the Licensing Authority as may be assigned to such person;

“licensed fisherman” means a person licensed to fish pursuant to section 5;

“Minister” means the Minister for the time being responsible for fisheries.

Fishing Licences

Prohibition
of fishing
without
licence.
Schedule.

3.—(1) Subject to subsection (2), after the expiration of thirty days from the commencement of this Act, no person shall, using any of the methods specified in the Schedule, engage in fishing in Jamaica or, if a citizen of Jamaica, such areas outside Jamaica as may be prescribed, unless he is the holder of a valid licence issued by the Licensing Authority.

(2) The Minister may, by order, subject to such terms and conditions as he may specify, exempt from the requirements of this section—

- (a) persons who he is satisfied are engaged *bona fide* in research and who intend to fish only for scientific purposes;
- (b) any other category of person specified in the order.

(3) Any person who contravenes the provisions of subsection (1) or who fails to observe any term or condition imposed by an order made under subsection (2) shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars and, in default of payment, to imprisonment for a term not exceeding twelve months.

Appoint-
ment of
Licensing
Authority
and
assistants.

4. The Minister may designate by general notice a public officer as the Licensing Authority and such other public officers as he may think fit to assist the Licensing Authority.

Certain cate-
gories of
fishermen to
be licensed.

5.—(1) The Licensing Authority may, on application made in the prescribed manner and on payment of the prescribed fee, issue to any person who desires to fish using any method specified in the Schedule a licence so to do.

(2) Any licence granted under this section may be granted subject to such conditions, in addition to any conditions that may be prescribed in respect of licences generally, as the Licensing Authority thinks fit to impose.

Any conditions so imposed may at any time be varied, added to, or revoked by the Licensing Authority.

(3) Any licence granted under this section may, in the discretion of the Licensing Authority, be a temporary licence which shall, unless previously cancelled under this Act, continue in force only for such period or until such date as may be specified in the licence. The Licensing Authority may from time to time extend the operation of any temporary licence for a further period or, as the case may require, until a later date.

(4) Except in the case of a temporary licence issued pursuant to subsection (3), every licence granted under this section shall, unless previously cancelled under section 15, continue in force for a period of two years, or such other period as may be prescribed, from the date on which it is granted.

(5) The Licensing Authority shall keep a register of all licences issued under this section, and shall cause to be entered therein such particulars as may be prescribed.

6. In considering applications for licences under section 5 the Licensing Authority shall have regard to—

- (a) the desirability in the interest of the fishing industry of granting a licence;
- (b) whether or not the applicant operates or assists in the operation of a canoe or other vessel, or is a member of the crew of a deep-sea fishing vessel;
- (c) such other matters as in his opinion are relevant to the application.

Matters to be considered on application for licence.

7.—(1) Every licensed fisherman (other than the holder of a temporary licence issued pursuant to subsection (3) of section 5) shall carry upon his person such identification card as may be prescribed at all times while, using any of the methods specified in the Schedule, he is fishing in

Identification of licensed fisherman.

Schedule.

Jamaica or, if he is a citizen of Jamaica, within such waters outside Jamaica as may be prescribed pursuant to section 3.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty dollars and, in default of payment thereof, to imprisonment for a term not exceeding one month.

Registration and Licensing of Boats

Boats used
for fishing
to be regis-
tered and
licensed.

8.—(1) After the expiration of thirty days from the commencement of this Act, no person shall use any boat for fishing in Jamaica or, if a citizen of Jamaica, in such areas outside Jamaica as may be prescribed pursuant to section 3, whether for purposes of recreation or sport, or by way of business, unless—

- (a) such boat is registered in accordance with the provisions of this Act; and
- (b) the owner of the boat is the holder of a valid licence under this Act authorizing the boat to be so used.

(2) The Minister may, by order, subject to such terms and conditions as he may specify, exempt from the requirements of subsection (1)—

- (a) any fishing boat which he is satisfied is to be used *bona fide* for the purpose of scientific research, and the owner thereof;
- (b) such other categories of boats and owners as may be specified in the order.

(3) If any boat is used in fishing in contravention of this section or of any terms or conditions imposed by the Minister pursuant to subsection (2), the owner of the boat, if he permits it so to be used, and every person who so uses it, shall be guilty of an offence and liable on summary con-

viction before a Resident Magistrate to a fine not exceeding two hundred dollars and, in default of payment thereof, to imprisonment for a term not exceeding six months.

(4) The Minister may, by order, subject to such terms and conditions as he may specify, exempt from the provisions of subsection (1) any fishing boat which he is satisfied is to be used for and on behalf of the Government of Jamaica.

9.—(1) Application for the registration of a fishing boat shall be made in the prescribed form to the Licensing Authority.

Application for registration of a fishing boat and particulars thereof.

(2) Subject to the provisions of subsection (5), upon receipt of an application for the registration of a fishing boat, the Licensing Authority shall cause a Fishery Inspector to inspect such boat and, if on such inspection the boat is found to be fit for the purpose of fishing, the Licensing Authority shall, subject to the provisions of subsection (4), assign to such fishing boat a number (hereinafter referred to as the registration number) and on payment by the applicant of the prescribed registration fee, issue to the owner of such fishing boat a certificate of registration thereof in the prescribed form.

(3) The Licensing Authority may in his discretion—

- (a) register a boat temporarily as a fishing boat; and
- (b) from time to time extend the operation of a temporary registration for a further period or, as the case may require, until a later date.

(4) The Licensing Authority may refuse to register a fishing boat if he is satisfied that the registration thereof would not be in the interest of the fishing industry, so, however, that the owner of a fishing boat may, within twenty-one days after such refusal, appeal in writing to the Minister against such refusal and the decision of the Minister on such appeal shall be final.

[The inclusion of this page is authorized by L.N. 3/2001]

(5) Nothing contained in this section shall confer any exemption from the provisions of the Shipping Act, or shall authorize a Fishery Inspector to perform any functions under that Act.

Register of
fishing
boats to be
kept.

10.—(1) The Licensing Authority shall keep a register of all fishing boats registered under section 9, and shall cause to be entered therein such particulars as may from time to time be prescribed in respect of such fishing boats.

(2) The contents of such register shall be *prima facie* evidence of all the facts contained therein in all proceedings under this Act.

Registered
fishing boat
to be
licensed.

11.—(1) The Licensing Authority shall, on application made in the prescribed manner and on payment by the applicant of such fee as may be prescribed, issue to the registered owner of every fishing boat registered under this Act a licence for such boat to be used for fishing.

(2) Any licence granted under this section may, in the discretion of the Licensing Authority, be a temporary licence which shall, unless previously cancelled under this Act, continue in force only for such period as may be specified in the licence. The Licensing Authority may from time to time extend the operation of any temporary licence for a further period or, as the case may require, until a later date.

(3) Except in the case of a temporary licence pursuant to subsection (2), every licence granted under this section shall, unless previously cancelled under section 15, continue in force for a period of two years, or such other period as may be prescribed, from the date on which it is granted.

(4) The Licensing Authority shall keep a register of all licences issued under this section, and shall cause to be entered therein such particulars as may be prescribed.

(5) The person in charge of every registered boat shall at all times when the boat is in use for fishing—

- (a) cause the prescribed registration marks to be displayed in the prescribed manner on the boat; and
- (b) on being so requested by a Fishery Inspector, produce the licence for that boat.

(6) If the provisions of subsection (5) are contravened or not complied with in the case of any boat, the owner and the person in charge of the boat shall each be guilty of an offence and shall, on summary conviction before a Resident Magistrate, each be liable to fine not exceeding twenty dollars and, in default of payment thereof, to imprisonment for a term not exceeding one month:

Provided that—

- (a) in any proceedings under this subsection against the owner or person in charge of any boat it shall be a good defence for the defendant, being the owner, to prove that the contravention occurred without his knowledge and that he had taken all reasonable steps to secure compliance with this subsection, or for the defendant, being the person in charge, to prove that he had taken all reasonable steps to secure compliance with this subsection; and
- (b) if, within five days after the production of the licence was required, the holder of the licence produces the licence at such place as may be specified by the Fishery Inspector at the time its production was required, he shall not be convicted of an offence under paragraph (b) of subsection (5).

12.—(1) On the transfer of ownership of a registered fishing boat otherwise than by death—

Change of ownership of fishing boat otherwise than by death.

- (a) the fishing boat shall not be used for fishing for more than thirty days after such transfer of ownership unless the new owner is registered as the owner thereof;
- (b) the registered owner and the new owner shall, within thirty days after such change of ownership, make a joint application in writing to the Licensing Authority for the fishing boat to be registered in the name of the new owner;
- (c) such application shall be accompanied by the certificate of registration and shall state—
 - (i) the name and address of the new owner;
 - (ii) the date of transfer of ownership.

(2) Upon receipt of an application under subsection (1) the Licensing Authority shall—

- (a) revoke the certificate of registration and issue a new certificate of registration in the name of the new owner;
- (b) remove from the register the name and address of the registered owner and enter thereon the name and address of the new owner and the date on which such entry is made,

and from such date the new owner shall be deemed to be the registered owner of such fishing boat for the purposes of this Act.

Change of
ownership
of fishing
boat on
death of
owner.

13.—(1) On the death of the registered owner of a fishing boat, the person into whose custody the boat lawfully comes shall, within sixty days of its coming into his custody, give notice of that fact to the Licensing Authority who shall give such directions in writing as he may think fit as to the use of the boat pending registration in the name of a new owner.

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

14.—(1) Where a fishing boat—

- (a) is lost;
- (b) is destroyed;
- (c) becomes permanently unseaworthy;
- (d) has its physical appearance altered; or

(e) is no longer intended to be used as a fishing boat, the registered owner of such fishing boat shall forthwith report the matter to the Licensing Authority.

(2) Where the boat is reported to be lost or destroyed, the Licensing Authority shall, on being satisfied of the loss or destruction, revoke the certificate of registration of that boat and amend the register accordingly.

(3) Where the boat is reported to have become permanently unseaworthy and not fit for the purpose of fishing, the Licensing Authority shall cause a Fishery Inspector to inspect such boat and, on being satisfied that the boat is permanently unseaworthy, shall revoke the certificate of registration and amend the register accordingly.

(4) Where the Licensing Authority is satisfied that a boat is no longer intended to be used as a fishing boat, the Authority shall revoke the certificate of registration and amend the register accordingly.

(5) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall, on summary conviction thereof before a Resident Magistrate, be liable to a fine not exceeding fifty dollars and, in default of payment thereof, to imprisonment for a term not exceeding three months.

Procedure
where
fishing
boat lost,
destroyed,
permanently
unseaworthy.

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Refusal,
cancellation
or suspen-
sion of
licences.

15. Subject to the right of appeal conferred by section 16 the Licensing Authority may, in his discretion, refuse to grant a licence under this Act or may cancel or suspend any licence so granted if the holder of the licence fails to comply with any of the provisions of this Act or of any regulations made under this Act, or commits a breach of any of the conditions of his licence.

Right of
appeal
against
refusal,
cancellation
or suspen-
sion of
licence.

16.—(1) In any case where the Licensing Authority refuses to grant a licence under this Act, the applicant for the licence may, at any time within thirty days after the Licensing Authority's decision has been communicated to him, appeal in the prescribed manner to the Minister.

(2) Where the Licensing Authority decides to cancel or suspend any licence issued under this Act, the Licensing Authority shall inform the holder of the licence—

(a) of the Licensing Authority's decision to cancel or suspend such licence, together with the reasons therefor; and

(b) that the holder of the licence may at any time within thirty days after the Licensing Authority's decision has been communicated to him, appeal in the prescribed manner to the Minister.

(3) The cancellation or suspension of a licence shall not take effect until the expiration of the period of thirty days aforesaid or, if any appeal made is unsuccessful, on the determination of the appeal.

(4) Where a licence has been cancelled, the holder of the licence shall surrender such licence to the Licensing Authority and the Licensing Authority shall cause the register to be amended accordingly.

(5) In any appeal pursuant to subsection (1) or subsection (2), the Minister's decision shall be final and conclusive and not subject to any further right of appeal.

17. Where any licence issued under this Act or any regulations made thereunder is accidentally destroyed, defaced or lost, the Licensing Authority may, if satisfied as to the destruction, defacement or loss of such licence, and on payment by the licensee of such fee as may be prescribed, issue to the licensee a substitute licence. Such licence shall be clearly marked "Duplicate" and a note shall be made in the register setting out the reason for the issue of such duplicate licence.

Procedure
on loss of
licence

Fishery Protection

18.—(1) The Minister may, from time to time, by order declare any area specified in such order to be a fish sanctuary.

Minister
may declare
fish
sanctuary.

(2) Any person who fishes or attempts to fish in any area declared by the Minister to be a fish sanctuary shall be guilty of an offence and liable, on summary conviction before a Resident Magistrate, to a fine not exceeding five hundred dollars and, in default of payment thereof, to imprisonment for a term not exceeding six months.

19.—(1) The Minister may, from time to time, by order declare any period to be a close season for any species of fish specified in such order.

Minister
may declare
close season.

(2) Any person who, during any close season for any species of fish, takes any fish of such species or in any way injures or disturbs such fish, shall be guilty of an offence and liable, on summary conviction thereof before a Resident Magistrate, to a fine not exceeding five hundred dollars and, in default of payment thereof, to imprisonment for a term not exceeding six months.

(3) Subsection (2) shall not apply to a person who takes a fish of such species accidentally and returns it to the water with the least possible delay.

Fishery Inspector may enter boats, examine licences, etc.

20.—(1) Any Fishery Inspector, for the enforcement of the provisions of this Act, may at all times—

- (a) enter any boat engaged in fishing in contravention of the provisions of this Act, or which he reasonably suspects to be so engaged and, for that purpose, may require that the boat be placed in such position as he may direct;
- (b) require the person in charge of such fishing boat to produce the licence for such boat;
- (c) require the person in charge of such fishing boat to give any explanation concerning such boat and any person on board such boat;
- (d) require any person on board such fishing boat to produce his identification card or his licence to fish;
- (e) examine all fishing nets, lines and other fishing equipment being used on or in connection with such boat;
- (f) do all such other acts as he is authorized or required to do by this Act and by any regulations under this Act.

(2) Any person who—

- (a) refuses, neglects or fails to comply with any direction given to him by any Fishery Inspector; or
- (b) refuses or fails to produce any licence which he is required by any Fishery Inspector to produce; or
- (c) refuses, without reasonable cause, to give any explanation which he is required by any Fishery Inspector to give; or
- (d) assaults or obstructs any Fishery Inspector acting in the execution of his duty; or
- (e) refuses or fails to produce his identification card when required by any Fishery Inspector to produce it,

shall be guilty of an offence and liable, on summary conviction thereof before a Resident Magistrate, to a fine not exceeding five hundred dollars and, in default of payment, to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment:

Provided that a person shall not be convicted of an offence under paragraph (b) if, within five days after the production of the licence was required, the holder of the licence produces the licence at such place as may be specified by the Fishery Inspector at the time its production was required.

21. Any Fishery Inspector may, with or without warrant, seize any boat, net, gear, tackle or other fishing equipment that is being used by any person who is found committing an offence against this Act or any regulations under this Act.

Fishery Inspector may seize equipment being used illegally.

22.—(1) Any person who unlawfully removes, takes away, or has in his possession any boat, fish-pot, net, gear or other fishing equipment belonging to some other person, or destroys, damages, displaces or alters the position of such boat, fish-pot, net, gear, or other fishing equipment or of any buoy, float or other mark connected thereto shall be guilty of an offence and liable on summary conviction thereof before a Resident Magistrate to a fine not exceeding one thousand dollars and, in default of payment thereof, to imprisonment for a term not exceeding twelve months.

Penalty for removing fish-pot, etc., of another.

(2) In relation to a person who is a citizen of Jamaica, the territorial extent of the offence created by subsection (1) is not limited to Jamaica and the territorial waters of Jamaica but applies as well to the waters beyond the outer limits of such territorial waters.

(3) For the purposes of the Larceny Act any fish in a fish-pot shall be deemed to be in the private property of the owner of the pot.

Penalty for landing and sale of illegally caught fish.

23. Any person who knowingly lands, sells, buys or has in his possession any fish taken, killed or injured in contravention of the provisions of this Act or of any regulations under this Act shall be guilty of an offence and liable, on summary conviction before a Resident Magistrate, to a fine not exceeding one thousand dollars and, in default of payment thereof, to imprisonment for a term not exceeding twelve months.

General

Licences in respect of fishing in the exclusive economic zone.
33/1991
S. 22.

23A. Any licence granted under section 5 or 11 in relation to the exclusive economic zone shall be subject to the provisions of the Exclusive Economic Zone Act or any order made under section 11 of that Act.

Duties of owners of carrier vessels.

24.—(1) The owner of every carrier vessel shall—

- (a) keep a register (which shall be available for inspection by the proper authorities at all reasonable times) of all fishermen employed by him or operating from such vessel or otherwise associated with such owner in a fishing expedition in circumstances which indicate that the owner is primarily responsible for their welfare during such expedition;
- (b) make arrangements for supplying such fishermen with adequate food and drinking water when such fishermen are engaged in deep-sea fishing or fishing from any cay;
- (c) make arrangements for the rescue in cases of bad weather or emergency of such fishermen engaged in deep-sea fishing or fishing from any cay;
- (d) make such arrangements as may be prescribed for the payment of any fine or penalty incurred by such fishermen or fishing boat by reason of fishing without the proper permit or licence in waters with foreign jurisdiction;
- (e) keep a register of all fishermen transported by him.

(2) Any person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction before a Resident Magistrate—

- (a) in the case of an offence under paragraph (a) or paragraph (e) of subsection (1), to a fine not exceeding one hundred dollars and, in default of payment thereof, to imprisonment for a term not exceeding three months;
- (b) in the case of an offence under paragraph (b) of subsection (1), to a fine not exceeding five hundred dollars and, in default of payment thereof, a term of imprisonment not exceeding six months;
- (c) in the case of an offence under paragraph (c) of subsection (1), to a fine not exceeding five thousand dollars and, in default of payment thereof, a term of imprisonment not exceeding twelve months; and
- (d) in the case of an offence under paragraph (d) of subsection (1), to a fine not exceeding five thousand dollars and, in default of payment thereof, a term of imprisonment not exceeding twelve months.

(3) In this section "carrier vessel" means a vessel which is used—

- (a) to transport fishermen to any cay for such fishermen to engage in fishing from that cay;
- (b) to transport fishermen and their boats to deep-sea fishing areas and to serve as a base for such fishermen to engage in deep-sea fishing;
- (c) to transport food, water, fuel and materials for the construction and repair of fish-pots and other fishing equipment for fishermen engaged in deep-sea fishing or fishing from a cay;
- (d) to transport any fish caught by such fishermen to shore; or

- (e) to transport such fishermen and their equipment back to shore,

whether or not such fishermen are—

- (i) employed by the owner of the carrier vessel; or
- (ii) otherwise associated with the owner of such vessel in any fishing expedition; or
- (iii) independent fishermen transported on such vessel.

Regulations. 25. The Minister may from time to time make regulations generally for giving effect to the purposes and provisions of this Act and in particular (but without prejudice to the generality of the foregoing) may make regulations—

- (a) prescribing the manner of application for any licence or certificate of registration to be issued under this Act;
- (b) prescribing the form of any licence or certificate of registration to be issued under this Act;
- (c) prescribing the form of and the particulars to be shown on identification cards to be issued under this Act;
- (d) prescribing the particulars to be stated in any register to be kept under this Act;
- (e) making provision in respect of the inspection from time to time of boats used in fishing;
- (f) prescribing or prohibiting the use of various types of fishing equipment;
- (g) prescribing or prohibiting methods of fishing within certain areas or at certain periods;
- (h) making provision in respect of the marketing or disposal of fish;
- (i) making provision in respect of the management and control of fishing beaches;

- (j) making provision in respect of the keeping of statistics in connection with the fishing industry;
- (k) prescribing measures for conservation of fish;
- (l) prescribing measures for the safety and welfare of fishermen and men otherwise engaged in the fishing industry;
- (m) prescribing fees to be paid in connection with the issue of any certificate of registration or licence to be issued under this Act;
- (n) prescribing the particulars to be marked on fishing boats and other fishing equipment;
- (o) prescribing anything required or permitted by this Act to be prescribed.

26. The Minister may from time to time by order amend the Schedule.

Power to amend Schedule.

27. Any boat, net, fishing equipment, implements or appliances used in the commission of any offence against this Act in respect of which there is a conviction may, in the discretion of the Court, be forfeited to the Crown.

Forfeiture of things seized.

28. Notwithstanding any provision to the contrary in any other enactment, proceedings against any person for an offence under this Act may be commenced before a Resident Magistrate having jurisdiction in the parish where that person is for the time being, and, for all incidental and consequential purposes, the offence shall be deemed to have been committed within the boundaries of that parish.

Resident Magistrate may deal with extra-territorial offences.

29. Any person who commits an offence against this Act for which no other penalty is provided shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred dollars and, in default of payment thereof, to imprisonment for a term not exceeding three months.

General penalty.

Specified methods of fishing

Fishing by means of—

- (a) traps or pots;
- (b) nets;
- (c) spear guns;
- (d) lines from a boat;
- (e) diving with the use of underwater breathing apparatus including Hookah and SCUBA gear;
- (f) Hawaiian sling.

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17/2000.