

## CHAPTER 33

### FISHERIES

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22 of 1977      **An Act to make provision for the promotion and regulation of fishing and fishing**  
9 of 1978      **industries in Kiribati and its fishery limits**  
8 of 1983  
9 of 1984

L.N. 27/78

*Commencement: 3rd March 1978*

**PART I**

**GENERAL**

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

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

"authorised officer" means any fisheries officer, licensing officer, police officer or officer as defined in the Customs Act, the master of any Government vessel or vessel owned by the Kiribati Shipping Corporation and any other person appointed by the Minister to be an authorised officer for the purposes of this Act;

"explosive" means any powder, gelignite, plastic or other substance used or manufactured with a view to producing a practical effect by explosion;

*Am. 9 of 1984*      "fish" means any aquatic animal, whether piscine or not, and includes any mollusc, crustacean, coral, sponge, seaweed, holothurian (beche de mer), sea urchins, and turtles and their young and eggs;

*Am. 9 of 1984*      "fishing" means the actual or attempted fishing, catching, taking, killing, or harvesting of fish and includes any activity which may reasonably be expected to result in the fishing or attempted fishing or catching, taking, killing or harvesting of fish, or any operations in support of or in preparation for any of the foregoing activity;

*Am. 9 of 1984*      "fish processing establishment" means any land, vessel, or other place on or in which

fish are processed for sale within or outside Kiribati;

"fish product" means any product of fish processing;

*Am. 8 of 1983* "fishery limits" means the exclusive economic zone of Kiribati or such part of that zone as is defined by the Minister for the purpose by Notice published in the Gazette;

*Am. 9 of 1984* "fishing vessel" means any vessel used or adapted for use for fishing commercially, and includes support vessels and craft, and helicopters and light aircraft used in fishing operations, but does not include a sailing boat or paddling canoe of native design or a boat, punt or barge having an overall length of less than 7 metres, whether powered by an engine or not;

"foreign fishing vessel" means any fishing vessel that is not a local fishing vessel;

"licensing officer" means a licensing officer appointed under section 3(2) and includes the Chief Fisheries Officer;

"local fishing vessel" means any fishing vessel -

(a) owned by one or more persons resident and domiciled in Kiribati; or

(b) owned by any company or fisheries cooperative society registered or incorporated under the laws of Kiribati, and having its principal place of business in Kiribati;

"low-tide" elevation" means a naturally formed area of land that is surrounded by and above water at mean low-water spring tides but is submerged at mean high-water spring tides;

"nautical mile" means the international nautical mile of 1,852 metres;

"operate" in relation to a vessel means to be the master or the owner or charterer of the vessel and in relation to a fish processing establishment means to own or be in charge of the fish processing establishment and, where the fish processing establishment is a vessel, means to be the master or owner or charterer thereof;

"processing" in relation to fish, includes preserving or preparing fish or producing any substance or article from fish by any method;

*Am. 9 of 1984* "territorial sea" means that part of the sea adjacent to the coast of any island of Kiribati which is within 12 nautical miles measured from the low water mark of the seaward side of the reef fronting such coast, or, when a reef is not present, from the low water mark of the coast itself:

Provided that a low-tide elevation that lies wholly or partly within that part of the sea that would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth of the territorial sea shall be treated as an island.

Promotion of fisheries

3. (1) The Minister may take such measures as he shall see fit to promote the development of fishing and fisheries in Kiribati to ensure that the fisheries resources of Kiribati are exploited to the full for the benefit of Kiribati.

(2) The Minister may appoint a Chief Fisheries Officer and such other fisheries officers and licensing officers as he may consider necessary for carrying out the purposes and provisions of this Act.

## PART II

### LICENSING

Licensing of local fishing vessels

4. (1) Subject to any discretion given by the Minister a licensing officer may, upon written application in the prescribed form and upon payment of the prescribed fee grant a licence in the prescribed form in respect of any local fishing vessel;

Provided that no licence shall be granted to any local fishing vessel which is a vessel to which section 15(1) of the Shipping Act applies unless there is subsisting a valid and unexpired certificate of seaworthiness issued in respect of the fishing vessel under section 13 of that Act.

- (2) Every licence granted under subsection (1) -
- (a) shall not, except with the prior written approval of the Minister endorsed on the licence, extend beyond 1 year from the date of issue thereof;
  - (b) shall be personal to the holder;
  - (c) shall not be transferable;
  - (d) shall be subject to such conditions as may be prescribed and to such further conditions as the licensing officer shall think fit to endorse thereon; and
  - (e) shall not, without the prior written approval of the Minister endorsed on the licence, confer on the licensee any exclusive right to fish.

(3) It shall be a condition of every licence granted under subsection (1) that there shall be marked and kept marked on the vessel in respect of which the licence is granted such letters and numbers of identification as may be assigned to that vessel by the licensing officer, in such manner as he may specify or as may be prescribed.

*Am. 9 of 1978*

(4) Any person who operates or causes or allows to be operated any local fishing vessel within the fishery limits or in the lagoon or inland waters of Kiribati except under a valid licence granted under this section in respect of that vessel and in accordance with the conditions of such licence shall be liable on conviction to a fine of \$1,000 and to imprisonment for 3 years.

Entry and fishing by foreign vessels within the fishery limits

5. (1) No foreign fishing vessel shall -

- (a) enter within the fishery limits except for a purpose recognised by international law;
- (b) fish or attempt to fish within the fishery limits;
- (c) load, unload or tranship any fish within the fishery limits;
- (d) load or unload any fuel or supplies within the fishery limits;

unless authorised to do so under a permit granted under this Act.

(2) A foreign fishing vessel entering the fishery limits for a purpose recognised by international law without a permit granted under this Act shall return outside those limits as soon as that purpose for which it entered them has been fulfilled.

(3) The Chief Fisheries Officer may, with the approval of the Minister, grant a permit in the prescribed form in respect of any foreign fishing vessel, authorising such vessel to do such of the things described in subsection (1) as may be provided for in the permit.

*ss. 3A - 3D inserted Am. 9 of 1978. Deleted Am. 9 of 1984*

(4) A permit granted by the Chief Fisheries Officer under this section shall be subject to -

- (a) such conditions as may be prescribed, and to such further conditions as may be endorsed upon the permit by the Chief Fisheries Officer, and
- (b) to the payment of such fees and royalties as may be determined by the Chief Fisheries Officer with the approval of the Minister.

(5) A permit granted by the Chief Fisheries Officer under this section shall not confer any exclusive right to fish unless the permit expressly so provides.

*Am. 9 of 1984* (6) The fishing gear of any foreign fishing vessel which is prohibited by this section from fishing within the fishery limits shall, while the vessel is within those limits, be stowed in such a manner as not to be readily accessible for fishing.

*Am. 9 of 1984* (7) Where any foreign fishing vessel is used in contravention of any of the provisions of this section, the master, owner and charterer, if any, of such vessel shall each be liable on conviction -  
(a) in the case of a contravention of subsection (1), to a fine of \$250,000; and  
(b) in the case of a contravention of subsection (2) or subsection (6), to a fine of \$50,000.

*Am. 9 of 1984* (8) Where any foreign fishing vessel is used in contravention of any of the conditions of a permit granted under this section, the master, owner and charterer, if any, of such vessel shall each be liable on conviction to a fine of \$50,000.

Fish processing establishment 6. (1) The Chief Fisheries Officer may with the approval of the Minister and on payment of the prescribed fee grant to any person a licence in the prescribed form to operate a fish processing establishment subject to such conditions as may from time to time be prescribed and to such further conditions as may be endorsed upon the licence by the Chief Fisheries Officer.

(2) Any person who operates or causes or allows to be operated any fish processing establishment except under a valid licence granted under this section in respect of that fish processing establishment and in accordance with the conditions of such licence shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

Cancellation and suspension of 7. (1) Where any of the conditions of any licence or permit is contravened the Chief Fisheries Officer may cancel the licence or permit, or suspend such licence or

licences and permits

permit for such period as he may think fit.

(2) Any person aggrieved by the refusal of any licensing officer to issue any licence granted under this Act, or by the cancellation or suspension of any licence or permit granted under this Act may appeal against such refusal, cancellation or suspension to the Minister, whose decision shall be final.

### PART III

#### POWERS OF AUTHORISED OFFICERS

Power to stop, board, search vessels, etc.

8. For purposes of ascertaining whether there is, or has been, any contravention of the provisions of this Act any authorised officer may -

- (a) at all reasonable hours enter any fish processing establishment and any premises other than premises used exclusively as a dwelling house;
- (b) stop, board and search -
  - (i) any foreign or local fishing vessel within the fishery limits; or
  - (ii) any local fishing vessel, outside the fishery limits;
- (c) stop and search any vessel transporting, or reasonably suspected of transporting, fish or fish products;
- (d) make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been, or may be, exercised and take samples of any fish, or fish products, found therein;
- (e) require any person to produce his licence or his authority if it appears to the authorised officer that such person is doing any act for which a licence or authority is required under this Act.

Powers of an authorised officer where he reasonably believes an offence committed

9. (1) Where he has reasonable grounds for believing that an offence against the provisions of this Act has been committed, any authorised officer, without a warrant, may -

- (a) following hot pursuit as recognised by international law and commenced within the fishery limits, stop, board and search outside the fishery limits any foreign fishing vessel which he believes has been used in the commission of an offence within the fishery limits, 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 the fishery limits;
- (b) within the fishery limits -
  - (i) arrest any person whom he believes has committed such offence and, if the authorised officer making such arrest is not a police officer, he shall without necessary delay make over such person to a police officer, or in the absence of a police officer, shall take such person to the nearest police station;
  - (ii) in the case of an offence against sections 5(1), 13 or 14(1), seize any vessel (together with its equipment, stores and cargo bunker) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed;
  - (iii) seize any fishing gear, instruments or appliances which he believes

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- have been used in the commission of such offence;
- (iv) seize any fish which he believes have been taken or fish products produced in the commission of such offence; or
  - (v) seize any explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in contravention of section 14.

(2) After any vessel has been stopped under the provision of this section any authorised officer may exercise concerning it, or in relation to any fish or fish products therein, any of the powers conferred by paragraph (d) of section 8.

(3) A written receipt shall be given for any thing seized under subsection (1) by the authorised officer concerned to the person from whom the seizure is made.

Obstruction etc.  
of authorised  
officers

10. Any person who -
- (a) wilfully obstructs any authorised officer in the exercise of any of his powers under this Act; or
  - (b) fails to comply with any lawful requirements imposed or to answer any lawful enquiry made by any authorised officer under this Act, including enquiries as to the source of supply of fish;

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months, and if the obstruction or non-compliance takes place on board or alongside a vessel, the master of the vessel shall be liable on conviction to a like penalty.

Authorised officers  
to declare office

11. Any authorised officer acting in the exercise of his powers under this Act shall, on demand, produce such documents of identification or other evidence as may be reasonably sufficient to show that is an authorised officer for the purpose of this Act.

Non-liability of  
authorised officers

12. No authorised officer shall be personally liable in respect of any act 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 IV

#### ADDITIONAL OFFENCES AND LEGAL PROCEEDINGS

Throwing overboard  
or destroying  
incriminating  
evidence

13. Any person who, being on board any vessel being pursued or about to be boarded by any authorised officer, throws overboard or destroys any fish, fishing gear, explosive, poison, noxious substance or any other thing whatsoever, with intent to avoid the seizure of such fish, fishing gear, explosive, poison, noxious substance or thing, or the detection of any offence against this Act, shall be liable on conviction to a fine of \$1,000 and to imprisonment for 5 years.

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Fishing with  
explosives,  
poison and other  
noxious substances

- 14.(1) Any person who -
- (a) permits to be used, uses or attempts to use any explosive, or any poison or other noxious substance, for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or
  - (b) carries or has in his possession or control any explosive, poison or other

noxious substance in circumstances which raise a reasonable presumption that such an explosive, poison or other noxious substance is intended to be used for any of the aforesaid purposes shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

(2) Any person who, knowing or having reasonable cause to believe that any fish has been taken in contravention of the provisions of this section, without lawful excuse, receives or is found in possession of such fish shall be liable on conviction

- (a) where the circumstances of such receipt or possession raise a reasonable presumption that the fish is intended to be sold in the course of business to a fine of \$200 and to imprisonment for 6 months; or
- (b) where no such presumption arises, to a fine of \$50 and to imprisonment for 2 months.

Forfeiture of gear, fish and vessel

15. Where any person is convicted of an offence against this Act, the court, may in addition to any other penalty it may impose, order that any fish caught or fish product produced in the commission of such offence or the proceeds of sale of such fish product, and any fishing gear, instruments or appliances and, in the case of an offence under section 5(1), section 13 or section 14(1) any vessel (together with its equipment, stores and cargo) used in the commission of such offence or in respect of which such offence has been committed, shall be forfeited to the Government, and if so forfeited such property shall be disposed of in such manner as the Minister of Finance may direct.

Presumption

16. All fish found on board any vessel used in the commission of an offence against the provisions of this Act or in respect of which any such offence has been committed, shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

Jurisdiction of the courts

17. Any offence against any of the provisions of this Act committed within the fishery limits may be dealt with, and judicial proceedings taken, as if the offence had been committed in any place in Kiribati.

Disposal of seized goods

18.(1) Any fish, fish product or other article of a perishable nature seized or taken under the provisions of this Act may on the direction of the Chief Fisheries Officer be sold and the net proceeds of sale held pending the outcome of any prosecution brought under this Act, and if no such prosecution is brought such proceeds shall be paid to the owner of the fish, fish product or other article sold.

(2) Any vessel, fishing gear, instrument or appliance seized under section 9 which is not ordered to be forfeited under section 15 shall be returned to its owner.

(3) Where any vessel, fishing gear, instrument or appliance, fish or fish product has been seized under section 9 the court may order its release, on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person -

- (a) delivering such property to the court upon the order of the court, without any impairment of its value, and paying in full any fine imposed by the court in pursuance of this Act; or
- (b) paying the monetary value of such property in accordance with an order or

judgment of the court together with any fine imposed.

## PART V

### MISCELLANEOUS

Fishing for scientific purposes 19. The Minister may, in writing, authorise any fishing vessel to fish within the fishery limits for the purpose of scientific investigations, and may for this purpose exempt such fishing vessel from all or any of the provisions of this Act and, in making such exemption, may impose such conditions as he may think fit.

Power of the Minister to enter into agreements 20.(1) The Minister may enter into an agreement with any person or any government or international agency for the purpose of enabling the Minister to perform any of the functions conferred by or under this Act, or for the purposes of facilitating the performance of those functions, or generally to advance the purposes for which this Act was enacted.

Am. 9 of 1984 (1A) For the purposes of giving effect to any agreement or arrangement under subsection (1) the Minister may by order authorise:

- (a) any
  - (i) person; or
  - (ii) government; or
  - (iii) agency of government; or
  - (iv) international agency,to issue fishing permits under section 5 subject to such conditions as he may specify in the order;
- (b) the doing of any other matter which may be required to be done under such agreement or arrangement.

Am. 9 of 1978 (2) The Minister may from time to time by order limit any provision of this Act relating to the fishery limits so far as is necessary to do so to give full effect to any convention including any convention that is adopted by the Third United Nations Convention on the Law of the Sea and to any international agreement or arrangement by which the Government may become bound concerning fishing off the coast of Kiribati.

Protection of native customary rights 21.(1) No person shall take fish in any sea or lagoon area or on any reef forming part of the ancient customary fishing ground of any kainga, utu or other division or subdivision of the people unless he shall be a member thereof or shall first have obtained a licence to do so at the hand of the Minister who may grant or refuse any such licence at his discretion.

(2) A person who contravenes subsection (1) shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

Regulations 22. The Beretitenti may make such regulations as may seem to him expedient for the carrying into effect of any of the purposes or provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may prescribe or provide for all or any of the following purposes -

- (a) the training of fishermen;
- (b) regulating the procedure relating to the issue of licences and permits and prescribing the forms thereof and forms of application therefor;
- (c) conditions and procedure to be observed by foreign fishing vessels while within the fishery limits;
- (d) conservation and protection of all species of fish;
- (e) the establishment of closed seasons for any area of Kiribati or any species of fish therein specified;
- (f) the placing of a limit on the amount, size or weight of fish or any species of fish, which may be caught or traded;
- (g) the designation of prohibited fishing areas for all fish or certain species of fish or certain methods of fishing;
- (h) the prohibition of certain types of fishing gear or methods of fishing;
- (i) in relation to fish nets, minimum mesh sizes;
- (j) the organisation of sport fishing;
- (k) the licensing of fish farms and the regulation or importation of live fish;
- (ka) regulating the importation of fish or fish products;
- (l) the organisation and regulation of marketing, distribution and export from Kiribati of fish or fish products;
- (m) controlling the handling, landing and transportation of fish or fish products;
- (n) methods and procedures to be adopted in relation to fish storage and processing;
- (o) substances and materials to be used in fish processing;
- (p) the inspection of fish processing establishments and fish products;
- (q) minimum standards in relation to the quality of fish or fish products;
- (r) methods of analysis of fish or fish products;
- (s) the grant of exemption to any vessel or class of vessel or fish processing establishment from all or any of the provisions of this Act;
- (t) the prohibition of any practices or methods, or employment of equipment or apparatus or materials, which are likely to be injurious to the maintenance and development of a stock of fish;
- (ta) the implementation of any agreement or arrangement entered into under section 20;
- (tb) regulating the taking of coral and seaweed;
- (u) anything required to be prescribed by this Act;
- (v) the provision of penalties for contraventions thereof of terms of imprisonment for 6 months and fines of \$1,000.

*Am. 9 of 1978*

*Am. 9 of 1978*