



REPUBLIC OF NAURU

FISHERIES MANAGEMENT ACT 2024

No. 9 of 2024

An Act to provide for the management, development, protection and conservation of the fisheries and marine resources of Nauru and for other related purposes.

Certified: 20 August 2024

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Enacted by the Parliament of Nauru as follows:

PART 1 – PRELIMINARY

1 Short title

This Act may be cited as the *Fisheries Management Act 2024*.

2 Commencement

This Act commences on a date to be appointed by the Minister by notice published in the Gazette.

3 Objective

The objective of this Act is for the Republic to:

- (a) exercise sovereignty and its sovereign rights to explore, exploit, conserve and manage the fisheries and marine resources of the Republic in accordance with the relevant rules of international law;
- (b) utilise, manage, develop, protect and conserve the resources in such a way as to conserve and replenish the resources as a sustainable asset for future generations and to achieve economic growth, improved social standards, improved nutritional standards, human resource development, increased employment and sound ecological balance; and
- (c) pursue effective strategies for managing the fisheries and marine resources of the Republic, including the registration of fishing vessels and the licensing of fishing and fishing-related activities.

4 Interpretation

(1) In this Act:

‘access agreement’ means an agreement entered into by the Republic, whether bilaterally or multilaterally, with any other State or the fishing association or other similar body of any other State, permitting access to fisheries waters or a part of fisheries waters by fishing vessels of that State for the purpose of fishing;

‘aircraft’ has the meaning given to it under the *Civil Aviation Act 2011*;

‘artisanal fishing’ has the same meaning given to it under the *Coastal Fisheries and Aquaculture Act 2020* and includes fishing by local inhabitants in the fisheries waters where the inhabitants are entitled by custom or under any written law to fish, where:

- (a) the fish are taken in a manner that, as regards the vessel, the equipment and the method used, are in accordance with their customary traditions or are small scale and individually operated; and
- (b) the fish are taken for household consumption, barter, domestic market trade or sale to a person licensed to buy fish under this Act;

'authorised officer' means:

- (a) a police officer;
- (b) a person authorised under Section 64;
- (c) a surveillance officer; or
- (d) any other person authorised by the Minister to perform such functions or exercise such powers under this Act;

'Authority' means the Nauru Fisheries and Marine Resources Authority established by the *Nauru Fisheries and Marine Resources Authority Act 1997*;

'based in Nauru', in relation to a vessel, means exclusive or predominant use by the vessel of land-based facilities in Nauru and the use may include:

- (a) location of the vessel's home port in Nauru;
- (b) offloading all or most of its catch in Nauru;
- (c) tranships all or most of the fish taken in fisheries waters in the port in Nauru; or
- (d) obtaining or storing all or most of its supplies in Nauru;

'beneficial owner' has the same meaning given to it under Section 5 of the *Beneficial Ownership Act 2017*;

'Board' means the Board of Directors of the Authority;

'buy' includes:

- (a) purchase or attempt to purchase;
- (b) barter or attempt to barter;
- (c) receive on account or consignment;
- (d) receive in order to send, forward or deliver for sale;
- (e) broker a sale;
- (f) purchase or barter for future goods or for any consideration of value; and
- (g) purchase or barter as an agent for any other person,

and **'buyer'** has a corresponding meaning;

'camera' means a manual or electronic system for taking, creating, generating, sending, receiving, storing, displaying and processing visual and other recordings, including mobile telephones, video recorders and satellites;

'Chief Executive Officer' means the Chief Executive Officer of the Authority;

'commercial fishing' means any fishing resulting or intending, or appearing to result in selling or trading any fish, which may be taken during the fishing operations, and does not include any subsistence or artisanal fishing, using purse-seine, longline, pole-and-line and trolling gear beyond the territorial sea;

'crew member' means a person who is engaged or employed in any capacity on board a vessel and in the business of the vessel, other than:

- (a) the master;
- (b) a pilot; or
- (c) a person temporarily engaged or employed on board the vessel while the vessel is at a port;

'designated fishery' means a fishery designated in accordance with Part 2;

'document', in relation to a vessel, includes any vessel's chart, logbook, certificate of registry or registration, licence, permit, official paper, article of agreement and other document or record, including an electronically stored record, which is used in the operation of the vessel or for the purpose of fishing by the vessel or which relate to the vessel and to the crew or to any person on board the vessel;

'driftnet' means a gillnet or other net or a combination of nets which is more than one kilometre in length, the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface of or in the water and which is not used or intended to be used while attached to a point of land or to the seabed, irrespective of whether the net is used or intended to be used while attached to a vessel;

'driftnet fishing' means any fishing involving the use of a driftnet;

'electronic monitoring device' means a device approved by the Authority which is placed on a fishing vessel or fishing equipment that records and transmits, either in conjunction with any other device or devices or independently, information or data concerning the fishing and such other activities of the vessel as may be required;

'exclusive economic zone' has the meaning given in Section 6 of the *Sea Boundaries Act 1997*;

'export' means to:

- (a) send or take out of the Republic ;
- (b) attempt to send or take out of the Republic;
- (c) receive on account or consignment for the purposes of paragraph (a) or (b);

(d) carry or transport anything for the purposes of paragraph (a) or (b), provided that such export, in whatsoever form, shall require an export certificate;

'fish' means any aquatic plant or animal, alive or dead, whether piscine or not, the eggs and all juvenile stages and any of the parts of the plant or animal and includes any fish product;

'fish aggregating device' means a man-made or partially man-made floating or semi-submerged device, whether anchored or not, intended to aggregate fish and includes any natural floating object on which a device has been placed to facilitate its location;

'fisheries waters' means the internal waters, the territorial sea, the exclusive economic zone and any other waters over which the Republic claims jurisdiction;

'fishery' means one or more stocks of fish or any fishing operations based on those stocks which can be treated as a unit for the purposes of conservation, development and management, taking into account geographical, scientific, technical, economic, recreational and other relevant characteristics;

'fishery management and development plan' means a plan established under Section 9;

'fishing' means:

- (a) searching for, catching, taking or harvesting fish;
- (b) attempting to search for, catch, take or harvest fish;
- (c) engaging in any other activity which can reasonably be expected to result in the searching, catching, taking or harvesting of fish;
- (d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons;
- (e) any operation at sea directly in support of or in preparation for any activity described in this definition;
- (f) the use of any other vehicle, air or sea borne, in relation to any activity described in this definition except for emergencies involving the health and safety of the crew or the safety of a vessel; or
- (g) storing, transshipping, processing or transporting fish taken from fisheries waters up to the time the fish are first landed;

'fishing day' means any calendar day or part of a calendar day, during which a fishing vessel is in the fisheries waters, but does not include a calendar day, or part of a calendar day, in which non-fishing day activities are undertaken;

'fishing equipment' means any equipment, gear, implement or other thing that can be used in the act of fishing, including any net, rope, line, float, trap, hook, winch, aircraft or support craft carried on board a vessel;

'fishing-related activity' means:

- (a) on-shore storing, buying, selling or processing of fish from the time the fish are first landed;
- (b) refuelling or supplying fishing vessels whether on land or at sea, selling or supplying fishing equipment or performing other activities in support of fishing;
- (c) exporting fish;
- (d) engaging in the business of providing agency or consultancy; or
- (e) any other similar services for and in relation to fishing or a fishing-related activity;

'fishing trip' means the period which:

- (a) starts with the departure of a vessel from port to transit to a fishing area or to transit to any other port to complete offloading; and
- (b) ends when the vessel enters port to offload part or all of its catch, either ashore or to any other vessel;

'fishing vessel' means a vessel which is used for, equipped to be used for or of a type that is normally used for fishing;

'Financial Intelligence Unit' has the same meaning given to it under the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*;

'Fixed Penalty Notice' means a notice issued under Section 121;

'foreign fishing vessel' means a fishing vessel other than a small vessel or a national fishing vessel;

'full insurance coverage' means insurance cover for:

- (a) personal injury;
- (b) loss of life;
- (c) loss of equipment and personal effects;

- (d) medical coverage, including medical evacuation;
- (e) repatriation costs; and
- (f) losses arising from the action, inaction or activity of an observer whilst on board or in the service of the vessel;

'game fishing' means fishing for a specified fish stock, other than for subsistence or artisanal fishing, using specified fishing equipment within and beyond the territorial sea;

'game fishing licence' means a licence issued to a game fishing vessel to engage in game fishing for a period not exceeding one year;

'game fishing permit' means a permit issued to a person to engage in game fishing for a period not exceeding one month;

'game fishing vessel' means a vessel used or chartered for game fishing;

'good standing', in relation to a vessel, means a vessel that is listed on:

- (a) the regional register of fishing vessels of the Pacific Islands Forum Fisheries Agency;
- (b) the record of fishing vessels of the Western and Central Pacific Fisheries Commission;
- (c) the register of fishing vessels of the Parties to the Nauru Agreement; and
- (d) any other register or record approved by the Authority;

'hot pursuit' means the right under international law to pursue a vessel that has contravened this Act and where such pursuit is conducted in accordance with international law;

'illegal, unreported and unregulated fishing' or **'IUU'** in relation to a fishing vessel, means fishing and fishing-related activities undertaken that are contrary to the international conservation and management measures applicable in the fishing area concerned, including the following:

- (a) the fishing vessel has been used to fish without a valid licence, authorisation or permit issued by the flag State or the relevant Coastal State;
- (b) the owner, operator, charterer or master of the fishing vessel has not fulfilled the obligations to record and report catch or catch-related data, including data to be transmitted by a vessel monitoring system;
- (c) the fishing vessel has been used to fish in a closed area, during a closed season, without or after attainment of a quota or beyond a closed depth;

- (d) the owner, operator, charterer or master of the fishing vessel has falsified documents in relation to the fishing vessel;
- (e) the fishing vessel has engaged in fishing a stock that is subject to a moratorium or for which fishing is prohibited;
- (f) the fishing vessel which used prohibited or non-compliant fishing equipment;
- (g) the fishing vessel has falsified or concealed its markings, identity or registration;
- (h) the owner, operator, charterer or master of the fishing vessel has concealed, tampered with or disposed of evidence relating to an investigation concerning the fishing or fishing-related activities of the fishing vessel;
- (i) the owner, operator, charterer or master of the fishing vessel has obstructed:
 - (i) the work of authorised officers in the performance of duties in inspecting the fishing vessel for compliance with the applicable conservation and management measures; or
 - (ii) the work of observers in the performance of duties under this Act;
- (j) the fishing vessel has taken on board, transhipped or landed undersized fish in contravention of this Act or regulations made under this Act or the conditions of the licence in force;
- (k) the fishing vessel has engaged in transshipment with other fishing vessels identified as having engaged in activities that may be characterised as illegal, unreported and unregulated fishing;
- (l) the fishing vessel has carried out fishing or fishing-related activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation and is flagged to a State not party to that organisation or not cooperating with that organisation as established by that organisation;
- (m) the fishing vessel is used for fishing but has no nationality and is a stateless fishing vessel, in accordance with international law;
- (n) the fishing vessel engaged in fishing or a fishing-related activity with any other fishing vessel which is on the illegal, unreported and unregulated fishing list or register of a regional fisheries management organisation;
- (o) the fishing vessel is engaged in transportation of weapons, funds, terrorist property or assisting any terrorist or terrorist organisation which is prohibited under the *Counter Terrorism and Transnational Organised*

Crime Act 2004 and Anti-Money Laundering and Targeted Financial Sanctions Act 2023; or

- (p) the owner, operator, charterer or master of the fishing vessel conducted business directly connected with illegal, unreported and unregulated fishing including trading in or the importation of fishery products;

'import' means to bring into the Republic or any part of the fisheries waters;

'internal waters' has the meaning given in Section 3 of the *Sea Boundaries Act 1997*;

'international conservation and management measure' means a measure to conserve or manage fish, that is adopted and applied in accordance with the *United Nations Convention on the Law of the Sea*, either by global, regional or sub-regional organisations or by treaties or arrangements to which the Republic is a party or cooperating non-contracting party;

'joint venture' means an enterprise of which:

- (a) the management and control exercisable in law or by agreement between the shareholders or by agreement between the enterprise and a third party or in practice, adequately reflect the majority Nauruan shareholding; and
- (b) the arrangements for contribution towards costs and expenses and for distribution of profits, dividends and other payments adequately reflect the majority Nauruan shareholding;

'licence' includes a permit, authority or other form of authorisation issued under this Act;

'licenced vessel' means a fishing vessel licenced under this Act or deemed to be licenced by Section 37;

'licencee' means a person to whom a licence is issued, whether in respect of the person or a vessel, premises or place;

'machine' includes an electric or electronic device and a satellite;

'master', in relation to a vessel, the fishing operations of a vessel, an aircraft or other vehicle, means the person having lawful command or charge or for the time being in charge, of the vessel, fishing operations, aircraft or vehicle, but does not include a pilot;

'mobile transceiver unit' means a device approved by the Authority and placed on a fishing vessel that is designed to transmit and receive, whether independently or in conjunction with any other device, information concerning position, fishing and such other activities of the vessel as may be required;

'national fishing licence' means a licence issued to:

- (a) a Nauruan citizen or a Nauruan corporation which may be based in Nauru;
- (b) a joint venture;
- (c) a foreign fishing vessel operating under a charter agreement;
- (d) a flagged fishing vessel; or
- (e) a fishing vessel operating under a charter agreement;

'national fishing vessel' means a fishing vessel, other than a small vessel, that:

- (a) is wholly-owned by one or more Nauruan citizens, the Republic, a statutory corporation of the Republic or a Nauruan corporation; or
- (b) is operating under a joint venture; or
- (c) is based in the Republic;

'Nauruan corporation' has the meaning given to under Section 2 of the *Corporations Act 1972*;

'net' means a fabric of rope, cord, twine or other material knotted or woven into meshes and designed to take fish;

'net sharing' means the transfer of fish from a vessel's net to any other vessel's fish hold during the brailing process when the hold of the transferring vessel is full;

'observer' means any person appointed by the Minister under Section 81 to perform scientific, compliance, monitoring and other similar observation duties on board a fishing vessel in accordance with this Act;

'officer' means a person appointed as an officer in the service of the Authority;

'operator' means the owner, charterer, master and any other person who is in charge of, responsible for the operations of, directs or controls a vessel, but does not include a pilot;

'owner' means a person exercising or discharging or claiming the right or accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his or her own behalf or on behalf of any other person, and in relation to a corporation which is an owner, means a person who is the owner jointly with one or more other persons and the manager, director and secretary or other similar officer or any person purporting to act in such a capacity, of the corporation and includes a beneficial owner;

'precautionary approach' means the approach implemented in accordance with Article 6 and Annex 2 of the *United Nations Fish Stocks Agreement*;

'process', in relation to fish, means the producing of any substance or article from fish by any method and includes the work of cutting up, dismembering, separating parts of, cleaning, sorting, packing, loining, freezing, canning, salting and preserving of fish;

'recreational fishing' means fishing done for leisure and without regard to earnings, gain or profit;

'regional fisheries management organisation' means an intergovernmental fisheries organisation, mechanism or arrangement, as appropriate, that has the competence to establish international conservation and management measures;

'Regional Licensing Arrangement' means:

- (a) the Treaty on Fisheries between the Governments of certain Pacific Island States and the United States of America signed in Port Moresby on 2nd April 1987, and any renewal or extension of the treaty;
- (b) the Federated States of Micronesia Arrangement for Regional Fisheries Access done at Honiara on 30th November 1994; or
- (c) any similar treaty or arrangement to which Nauru is a party, which makes provision for an international, regional or sub-regional system of fishing vessel licences;

'Republic' means the Republic of Nauru;

'seafood fraud' includes:

- (a) mislabelling or misclassification of fish or fish product which has been, is to be or intended to be imported, exported, transported, sold, purchased or received with respect to their grade, quality, quantity, origin or species including species substitution;
- (b) practices where a fish or fish product which has been, is being or intended to be imported, exported, transported, sold, purchased or received is made to look or appear to be better in grade and quality than it actually is;
- (c) practices where a fish or fish product which has been, is being or intended to be imported, exported, transported, sold, purchased or received, is made to weigh heavier than it actually is; and
- (d) the intermixing or otherwise of fish or fish product which has been, is being or intended to be imported, exported, transported, sold, purchased or received,

which results in misleading any person to consider, treat, purchase or accept such fish or fish product to be what it actually is not;

'sell' includes:

- (a) any method of disposition for consideration, including cash, any thing or matter which has value or which can be exchanged for cash or bartered;
- (b) disposition to an agent for sale on consignment;
- (c) offering or attempting to sell or receiving or having in possession for sale or displaying for sale or sending or delivering for sale or causing or permitting to be sold, offered, or displayed for sale; and
- (d) disposition by way of raffle, lottery or other game of chance,

and **'sale'** and **'sold'** have a corresponding meaning;

'serious misreporting', for the purposes of this Act, means to submit a document the contents of which are false or which the Authority determines are substantively false;

'serious offence' means:

- (a) fishing without a valid licence, authorisation, fishing right or permit as required under this Act;
- (b) failing to maintain accurate records of catch and catch-related data, as required by this Act or a licence issued pursuant to this Act;
- (c) serious misreporting of catch contrary to this Act or a licence issued pursuant to this Act;
- (d) fishing in a closed area, fishing during a closed season or fishing without or after attainment of a quota established in the fisheries waters or by an applicable sub-regional or regional fisheries management organisation or arrangement;
- (e) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- (f) using prohibited fishing equipment;
- (g) falsifying or concealing the markings, identity or registration of a fishing vessel;
- (h) concealing, tampering with or disposing of evidence relating to an investigation or anticipated investigation;
- (i) multiple violations which together constitute a serious disregard of conservation and management measures;

- (j) sexual harassment;
- (k) a sexual offence under the *Crimes Act 2016*;
- (l) seafood fraud;
- (m) offence under the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*, *Counter Terrorism and Transnational Organised Crime Act 2004* and *Proceeds of Crime Act 2004*; or
- (n) such other offences as may be prescribed,

and such definition shall be equivalent to a '**serious violation**' under the *United Nations Fish Stocks Agreement*;

'small vessel' means a vessel that:

- (a) does not exceed 10 metres in length; and
 - (b) is used or intended to be used solely in coastal or internal waters;
- but does not include a support craft;

'support craft' means a dinghy, tender or other craft not exceeding 10 metres in length which is used in conjunction with a fishing vessel in support of fishing by the vessel;

'surveillance officer' means an officer of a vessel or aircraft which is being used for the enforcement of this Act, whether or not the vessel or aircraft is registered in the Republic and a whether or not the officer is a Nauruan citizen;

'take' in relation to fish, means take, trap, catch, capture or harvest fish;

'territorial sea' has the meaning given in Section 4 of the *Sea Boundaries Act 1997*;

'total allowable catch', in relation to an area of waters, means the amount of fish that produces from those waters the maximum sustainable yield, as qualified by any relevant economic or environmental factors, fishing patterns, the interdependence of stocks of fish and any generally accepted or recommended international, regional or sub-regional standards, reference points and accepted conservation and management approaches;

'tranship' means to transfer any or all of the fish on board a vessel to any other vessel, either directly or by offloading the fish to the shore and immediately onto any other vessel or aircraft;

'United Nations Fish Stocks Agreement' means the Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling

Fish Stocks and Highly Migratory Fish Stocks, adopted by the United Nations General Assembly in New York on 4 August 1995;

‘vessel’ means a canoe, dinghy, launch, ship, hovercraft, or other apparatus constructed or modified for floating on water; and

‘vessel monitoring system’ includes any electronic or satellite-based devices or reporting systems that are capable of recording, monitoring and reporting on the fishing and fishing-related activities of fishing vessels or fish aggregating devices, including the determination of a vessel’s or fish aggregating device’s identity, GPS position, course and speed, special codes, catch, effort and scientific data collected by any electronic means and includes the use of a mobile transceiver unit, cameras and sensors.

- (2) A reference in this Act to the owner of a vessel shall, where under a contract of hire or charter agreement the control, maintenance and operation of the vessel is vested in the hirer or charterer, be read as a reference to the hirer or charterer.

5 Application

- (1) In and in relation to the fisheries waters, this Act applies, unless the context otherwise requires, to all persons, whether or not the persons are Nauruan citizens and to all vessels, including foreign fishing vessels.
- (2) In and in relation to any waters other than the fisheries waters, this Act applies, unless the context otherwise requires:
 - (a) to all fishing vessels registered in the Republic and all national fishing vessels and to all persons on them or dealing with or having any relevant relationship to them or persons on them; and
 - (b) following hot pursuits conducted in accordance with international law and commenced within fisheries waters or as required or permitted by international law or any convention, treaty or agreement to which the Republic is a party, to all persons and all vessels.
- (3) This Act has extraterritorial application according to its provisions and tenor.
- (4) The provisions of this Act concerning the application of conservation and management measures adopted by a regional fisheries management organisation or arrangement to which the Republic is a member, shall not apply to the internal waters and territorial sea of the Republic without the expressed consent of the Republic.

PART 2 – FISHERIES MANAGEMENT, CONSERVATION AND DEVELOPMENT

Division 1 – Fundamental principles, designation of fisheries and fisheries plans

6 Fundamental principles

- (1) Subject to this Act and any policy directions of the Minister, the Authority is responsible for the:
 - (a) utilisation, management, development, conservation and protection of all fish in the fisheries waters; and
 - (b) management of the fishing and fishing-related activities of national fishing vessels fishing beyond the fisheries waters.
- (2) The Minister, the Authority and any other person performing functions and exercising powers and under this Act, shall have regard to:
 - (a) the principle that the fisheries and marine resources of the Republic shall be managed, developed, conserved and protected as a sustainable asset for future generations;
 - (b) the sustainable utilisation of the fisheries and marine resources of the Republic to achieve economic growth, improved social standards, improved nutritional standards, human resource development, increased employment and a sound ecological balance;
 - (c) the need to follow and adopt internationally recognised and accepted conservation and management measures to fisheries and marine resources, in accordance with the applicable rules and principles of international law;
 - (d) the need to apply the precautionary approach to the management and conservation of fisheries and marine resources taking account of the best scientific information available, but not so that the absence of adequate scientific information may be used as a reason for postponing or failing to take conservation and management measures;
 - (e) any principles of maximum sustainable yields, allowable levels of fishing, precautionary reference points or total allowable catch which may be supported or adopted by the Republic;
 - (f) the dependence of the people of the Republic on the fisheries and marine resources for their food and livelihood;
 - (g) the special requirements of Small Island Developing States in the development of fisheries;
 - (h) the development of fisheries on the high seas in accordance with the rules of the relevant regional fisheries management organisation;
 - (i) the need to apply climate change mitigation and adaptation measures in fisheries governance;
 - (j) the promotion of zone-based management to, among other things, safeguard the interests of the Republic within the fisheries waters;

- (k) the need to avoid adverse impacts on the marine environment, to preserve biodiversity, to maintain the integrity of marine ecosystems and to minimise the risk of long-term or irreversible effects of fishing operations;
- (l) any relevant international obligations or bilateral or multilateral agreements of the Republic, or applicable rules of international law, relating to the exercise of jurisdiction of the Republic in fisheries waters;
- (m) any fisheries and marine resources policy of the Republic; and
- (n) any Fishery Management and Development Plan drawn up in accordance with this Act.

7 Designated fisheries

- (1) The Minister shall, on the recommendation of the Authority and by order published in the Gazette, declare a fishery as a designated fishery where, having regard to scientific, social, economic, environmental and other relevant considerations, such fishery:
 - (a) is important to the national interest; and
 - (b) requires management measures for ensuring sustainable use of the fisheries and marine resources.
- (2) A person shall not undertake commercial fishing or authorisation shall not be issued to any person or vessel to undertake commercial fishing in respect of any species, stock or type of fish or other aquatic organism where a fishery has not been declared as a designated fishery under this Section.
- (3) Any person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding \$200,000 or a term of imprisonment not exceeding 3 years or both.
- (4) Where a fishing vessel contravenes subsection (2), the operator of the vessel commits an offence and is liable on conviction to a fine not exceeding \$500,000 or a term of imprisonment not exceeding 5 years or both.

8 Determination of total allowable catch and effort

- (1) The Minister may, on the recommendation of the Authority, declare a total allowable catch and effort for designated fisheries in the fisheries waters and in doing so he or she may also declare total allowable catches and efforts with respect to particular fisheries or particular areas.
- (2) The Minister may, on the recommendation of the Authority taking into account the regional and international obligations of the Republic, declare a total allowable catch and effort for national fishing vessels on the high seas.

- (3) For the purposes of this Section, '**effort**' may be expressed in terms of the characteristics and capacity of the fishing vessel, the technology utilised and the fishing days allocated.

9 Fishery Management and Development Plan

- (1) This Section applies to all persons, all vessels and all fishing and fishing-related activities.
- (2) The Authority may and where the Minister so requires shall, cause to be drawn up a Fishery Management and Development Plan in respect of all designated fisheries and any fisheries and marine resources in the fisheries waters.
- (3) A Fishery Management and Development Plan shall:
 - (a) identify the fishery and its characteristics, including its current state of exploitation;
 - (b) specify the objectives to be achieved in the management of the fishery;
 - (c) identify any possible adverse environmental effects of the operation of fishing or fishing-related activities in the fishery;
 - (d) identify information that is required;
 - (e) identify where appropriate any relevant customary fishing rights or practices; and
 - (f) be in conformity with international, regional or sub-regional arrangements governing fisheries management to which the Republic is a party.
- (4) A Fishery Management and Development Plan shall be kept under review and shall be revised as necessary in accordance with the timeframe identified in the Plan for such review.
- (5) Each Fishery Management and Development Plan and each review of the Plan, shall be:
 - (a) approved by the Authority;
 - (b) endorsed and approved by the Minister; and
 - (c) published in the Gazette.
- (6) Any matter required to be determined by the Board in support of the implementation of a Fishery Management and Development Plan shall not take effect until it has been published in the Gazette.
- (7) The specific measures of each Fishery Management and Development Plan shall have the same effect as regulations made under this Act and where there is a conflict between a specific measure of a Fishery Management and

Development Plan and regulations made under this Act, the regulations shall prevail to the extent of the inconsistency.

- (8) Except where written authorisation has been granted by the Authority on the recommendation of the Chief Executive Officer or where the Chief Executive Officer has established interim measures, a person shall not undertake commercial fishing or authorisation shall not be issued to any person or vessel to undertake commercial fishing in respect of any species, stock or type of fish or other aquatic organism where a Fishery Management and Development Plan has not been developed and in effect for a designated fishery.
- (9) Any person who contravenes subsection (8) commits an offence and is liable on conviction to a fine not exceeding \$100,000 or a term of imprisonment not exceeding 2 years or both.
- (10) Where a fishing vessel contravenes subsection (8), the operator of the vessel commits an offence and is liable on conviction to a fine not exceeding \$500,000 or a term of imprisonment not exceeding 5 years or both.

10 Fisheries policies, strategies, plans and programmes

- (1) The Authority may prepare or cause to be prepared such national fisheries policies, strategies, plans and programmes necessary to achieve the objectives of this Act.
- (2) The Authority may prepare or cause to be prepared national plans of action including those required under treaties and other international or regional instruments to which the Republic is a party and shall report accordingly on the implementation of such plans.
- (3) All national plans of action referred to in this Section shall be reviewed at least every 4 years and revised as necessary.

11 Records, returns and other information

- (1) In order to assess and recommend appropriate management, development and conservation measures for any fishery and to prepare any Fishery Management and Development Plan and for carrying out its responsibilities under this Act, the Authority may require any of the persons referred to in subsection (2) to maintain and furnish in such manner and form as it may specify:
 - (a) all relevant data and information, including fishing time and effort, landing, processing, sales and other related transactions; and
 - (b) accounts, records, returns, documents and other information additional to that specified under this Act.
- (2) The following persons shall keep such accounts and records and furnish such returns and information, as may be required under this Act:

- (a) licencees or holders of other authorities or approvals issued or granted under this Act;
 - (b) owners, operators, representatives, vessel agents and masters of vessels licenced under this Act;
 - (c) owners and persons in charge of any premises where fish are received, purchased, transported, processed, stored, sold or otherwise disposed of;
 - (d) persons engaged in the receiving, purchasing, transporting, processing, storage, sale or disposal of fish;
 - (e) persons who provide vessels for hire for the purpose of enabling persons to take fish;
 - (f) persons who take fish otherwise than for the purpose of sale; and
 - (g) such other persons who may be required to do so by the Authority.
- (3) Any person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years or both.

Division 2 – Fisheries Conservation and Management Measures

12 Fishing prohibitions

- (1) For the purposes of this Section, '**specified**' means specified in a notice under subsection (3).
- (2) This Section applies to persons, vessels, fishing and fishing-related activities.
- (3) Subject to this Act, the Minister may by notice in the Gazette, following a recommendation by the Authority:
 - (a) declare that organisms of a specified kind are not sedentary organisms in respect of a specified area of fisheries waters;
 - (b) prohibit at all times or during a specified period, the taking, from any specified area within the fisheries waters or areas beyond such waters, of:
 - (i) fish or fish included in a specified class of fish; and
 - (ii) in the case of a specified class of crustaceans, females having eggs or spawn attached to them, and the processing of such fish on a vessel in the specified area;

- (c) prohibit the taking, from any area within the fisheries waters or areas beyond such waters, of fish included in a specified class of fish that:
 - (i) are less or greater than a specified size;
 - (ii) have dimension less or greater than a specified dimension; or
 - (iii) have a part with dimension less or greater than a specified dimension in relation to that part;
- (d) prohibit the taking, from any fisheries waters or areas beyond such waters, of fish or of fish included in a specified class of fish by:
 - (i) a specified method or gear;
 - (ii) persons other than a specified class of person; or
 - (iii) vessels other than a specified class of vessels;
- (e) prohibit the buying, selling, landing, sale, receiving, possession or export of fish or of fish included in a specified class of fish;
- (f) prohibit a person from having in his or her possession or in his or her charge in a vessel, in any area within the fisheries waters or areas beyond such waters, gear of a specified kind for taking fish unless the gear is stowed and secured;
- (g) prohibit a person from using or having in his or her possession or in his or her charge in a vessel, any area within the fisheries waters or areas beyond such waters, a quantity of equipment of a specified kind for taking fish that is in excess of a quantity specified in or ascertainable as provided in, the notice;
- (h) prohibit a person from using or having in his or her possession or in his or her charge or in or on a vessel or a class of vessels, in any area within the fisheries waters or areas beyond such waters to which a notice under paragraph (f) applies, equipment of a kind to which the notice applies, unless there is a licence in respect of the equipment;
- (i) prohibit the conduct of a specified type of related activity:
 - (i) absolutely;
 - (ii) by a person other than a person of a specified class of persons; or
 - (iii) in a specified manner;
- (j) prohibit the taking of protected or endangered species of fish;

- (k) prohibit a person or vessel from sheltering in a closed area or prohibited or restricted area, except with the written authorisation of the Chief Executive Officer; and
 - (l) prohibit such other activities as may be prescribed.
- (4) A notice under this Section may provide for exemptions from the prohibition in the notice and such exemptions shall only be valid during the timeframe stated in the notice.

13 Breach of prohibitions

- (1) A person who:
- (a) on his or her own account, or as the partner, agent or employee of any other person, does;
 - (b) causes or permits a person acting on his or her behalf to do; or
 - (c) uses a vessel to do,
- an act prohibited by a notice in the Gazette for the time being in force under Section 12(3), except in accordance with an exemption granted under Section 12(4), commits an offence and is liable on conviction:
- (i) in the case of a Nauruan citizen, to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 2 years; and
 - (ii) in the case of a person who is not a Nauruan citizen, to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 2 years, or both.
- (2) Where a fishing vessel contravenes subsection (1), the operator of the vessel commits an offence and is liable on conviction to a fine not exceeding \$1,000,000 or to a term of imprisonment not exceeding 10 years or to both.
- (3) A person who, in any area within the fisheries waters or areas beyond such waters, has any fish in his or her possession or under his or her control in a vessel at a time when the taking of such fish in that area is prohibited by a notice under Section 12(3), commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years, or both.
- (4) Where a fishing vessel contravenes subsection (3), the operator of such vessel commits an offence and is liable on conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years, or both.
- (5) It is a defence to a prosecution for an offence under subsection (3) if the person charged satisfies the court:

- (a) that the fish was not taken in the prohibited areas of waters referred to in that subsection; or
 - (b) that the taking of the fish was not in contravention of this Act.
- (6) A person shall not land, sell, receive or have in his or her possession any fish taken in contravention of subsection (1).
- (7) A person who contravenes subsection (6) commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years, or to both.
- (8) Where a fishing vessel contravenes subsection (6), the operator of such vessel commits an offence and is liable on conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years or both.
- (9) For the purposes of the prosecution of a person for an offence against this Section, where a person is charged for an act or omission done by an employee or other agent, the act or omission shall be deemed to have also been done by the person.

14 Prohibition of using poisons, explosives, electronic fishing device and others for fishing

- (1) A person shall not:
- (a) use, permit to be used or attempt to use any:
 - (i) chemical, poison or noxious substance or material whether of manufactured or natural origin;
 - (ii) dynamite or explosive substance or device; or
 - (iii) electronic fishing device, except the approved use by the Authority of such device for research purposes,for the purpose of killing, taking, stunning, stupefying or disabling fish or in any way rendering fish more easily caught; or
 - (b) carry, permit to be carried, possess or control any:
 - (i) chemical, poison or noxious substance or material whether of manufactured or natural origin;
 - (ii) dynamite or explosive substance or device; or
 - (iii) electronic fishing device,in circumstances which indicate the intention of its use for any of the purposes referred to in subsection (2)(a); or

- (c) place in the water or assist in placing in the water any:
 - (i) chemical, poison or noxious substance or material whether of manufactured or natural origin;
 - (ii) dynamite, or any explosive substance or device; or
 - (iii) electronic fishing device,for any of the purposes referred to in subsection (2)(a).

(2) A person shall not:

- (a) land, display for sale, sell, trade, deal in, transport, receive or possess any fish or fish product taken by any means which contravenes this Section; or
 - (b) knowing or having reasonable cause to believe that any fish or fish product has been taken in contravention of this Section, fail or refuse to give, on request, to any authorised officer information regarding:
 - (i) any activity described in subsection (1), or any support of or contribution to such activity; or
 - (ii) the source of his or her supply of any fish or fish product referred to in paragraph (a).
- (3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years, or both.
- (4) Where a fishing vessel contravenes subsection (1) or (2), the operator of such vessel commits an offence and is liable on conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years, or both.
- (5) In any proceedings for an offence against this Section, a certificate stating the cause of death or injury of any fish, issued under Section 115, shall be prima facie evidence of that fact.
- (6) For the purposes of this Section, any electronic fishing device, explosive, poison or other noxious substance found on board any fishing vessel shall be presumed to be intended for the purposes referred to in subsection (1)(a).
- (7) All fish or fish products seized under this Section shall be confiscated, and any vessel or vehicle used to transport such fish or fish products may be confiscated, and disposed of in such manner as the Chief Executive Officer determines.
- (8) For the purposes of this Section, the terms '**chemicals**', '**noxious materials**', '**poisonous**' and '**substance**' include but are not limited to hypochlorous acid or any of its salts, including bleaches and bleaching powders, preparations

containing rotenone, tephrosin or plant material from *Barrington asiatica*, *Coculus ferrandianus*, *Hera crepitans*, *Piscidia erythrina*, *Tephrosia purpurea* and *Wikstremia*, and includes other substances or chemicals identified by the Minister by notice in the Gazette.

- (9) For the purposes of this Section, the term '**electronic fishing device**' means any electronic device that is used directly for the purpose of killing, taking, stunning, stupefying or disabling fish or in any way rendering fish more easily caught including electronic fishers and excludes inter alia, electronic equipment used for search and finding fish.

15 Prohibition of driftnet fishing

- (1) A vessel shall not be used for or assist in driftnet fishing in the fisheries waters.
- (2) A national fishing vessel shall not be used for or assist in driftnet fishing in any waters.
- (3) A foreign fishing vessel shall not have a driftnet aboard while in fisheries waters.
- (4) Where a vessel is used in contravention of subsection (1), (2) or (3), the master, owner, charterer and crew members of the vessel are each guilty of an offence and are each liable to a penalty:
- (a) in a case involving the use of a foreign fishing vessel, not exceeding \$500,000 or imprisonment for a term not exceeding 5 years or both;
 - (b) in a case involving the use of a national fishing vessel, not exceeding \$100,000 or imprisonment for a term not exceeding 2 years or both; or
 - (c) in the case of a crew member of a foreign or a national fishing vessel, not exceeding \$100,000 or imprisonment for a term not exceeding 2 years or both.

16 Powers in relation to foreign fishing

In performing a function or exercising any powers under this Act in respect of fishing in the fisheries waters or fishing-related activities by a foreign State, a foreign person or a foreign fishing vessel, the Minister or the Authority, as the case may be, shall have regard to:

- (a) whether the foreign State, its fishing associations and its fishing vessels have cooperated with the Republic in the enforcement of written laws relating to:
- (i) fishing and fishing-related activities;
 - (ii) the undertaking of Coastal State, Flag State, Port State or Market State responsibility;

- (iii) the conservation and management of fisheries and marine resources; and
 - (iv) the provision of information;
- (b) the current good standing, record of compliance with international conservation and management measures or otherwise of any foreign fishing vessel involved; and
- (c) any relevant international obligations of the Republic, or applicable rules of international law, relating to the exercise of jurisdiction by the Republic over the fisheries waters.

17 Access agreements

- (1) The Authority, on behalf of the Republic, may enter into access agreements with the following:
- (a) States, territories, entities and regional economic integration organisations; or
 - (b) any fishing association or similar body, a publicly incorporated company, or an individual.
- (2) A foreign fishing vessel shall not be used for fishing or fishing-related activities in the fisheries waters except pursuant to an access agreement and in accordance with a valid and applicable licence issued under this Act.
- (3) An access agreement shall be made in conformity with this Act including fisheries policies and applicable Fishery Management and Development Plan duly prepared in accordance with this Act.
- (4) Any person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding \$500,000 or an imprisonment term not exceeding 3 years or both.
- (5) Where a fishing vessel contravenes subsection (2), the operator of such vessel commits an offence and is liable on conviction to a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both.

18 Conditions of access agreement

- (1) Each access agreement shall require agreement with the following conditions:
- (a) recognition of the Republic's sovereignty over its internal waters and territorial sea and sovereign rights for exploring, exploiting, conserving and managing the fisheries and marine resources of its exclusive economic zone;
 - (b) recognition of and agreement to comply with written laws, including this Act;

- (c) recognition of and agreement to respect and comply with the customs, traditions and customary rights of the local inhabitants;
 - (d) the Republic or regional economic integration organisation shall take all measures to ensure compliance by all its vessels with the terms and conditions of the access agreement and all applicable written laws, in particular the laws relating to fisheries waters, by acknowledging the Republic's right to enforce its laws and by fully assuming Coastal State, Flag State, Port State or Market State responsibility or in the case of access agreements entered into under this Part, such other responsibility as is necessary for the compliance with and enforcement of applicable written laws.
- (2) In addition to the conditions specified in subsection (1), the licence issued to a fishing vessel subject to an access agreement under this Act shall contain, in addition to any terms and conditions that may be approved, the following terms and conditions:
- (a) the operator shall recognise and agree to comply with all written laws, including and in particular this Act and the customs, traditions and customary rights of the local inhabitants;
 - (b) an access fee shall be required under an access agreement and shall be paid prior to the commencement of fishing operations in accordance with this Act and the applicable access agreement;
 - (c) the vessel shall not be used for transshipment at sea other than at a designated port or as permitted by the regulations;
 - (d) the vessel shall not be used for transshipment on the high seas;
 - (e) the vessel shall not be used for any other activity identified by order in the Gazette;
 - (f) accurate and timely reports, catch data and other information will be made or given as required by this Act and an applicable access agreement;
 - (g) the operator shall, where required in accordance with this Act, carry on board a type-approved mobile transceiver unit and other specified machinery or equipment necessary for the operation of a vessel monitoring system in respect of the vessel;
 - (h) the operator shall carry an approved automatic identification system (AIS) on board the vessel at all times;
 - (i) the operator shall ensure that there is at least one person on board the vessel that can communicate in the English language;

- (j) the operator shall comply with the requirements relating to observers under this Act;
 - (k) the operator shall comply with other terms and conditions for fisheries access as may be prescribed or otherwise required by the Chief Executive Officer in order to give effect to any fisheries management agreement;
 - (l) the operator shall comply with applicable international conservation and management measures; and
 - (m) such other requirements as may be provided in this Act or required by the Authority.
- (3) The conditions in subsections (1) and (2) are in addition to and not in recognition of any other undertakings that may be made in the access agreement and any other conditions which are applicable under this Act.
- (4) The licence and other fees payable under an access agreement concluded under Section 17 shall be related exclusively to fisheries access in accordance with this Act and shall not take into account any developmental assistance benefits provided by the other party to the Republic which are unrelated to the value of the fisheries access as determined by the Authority.
- (5) Where the licence and other fees payable under an access agreement concluded under Section 17 are not paid in full within the required timeframe for payment, such access agreement shall be suspended or terminated forthwith and any licence or other authorisation issued shall be suspended or revoked accordingly.
- (6) In the case of an access agreement concluded under Section 17, where the party to the agreement is an association, other entity or person representing or otherwise acting on behalf of its members or other person, such association, entity or person is liable for the undischarged liabilities of its members or other persons arising out of:
- (a) operations in the fisheries waters under the access agreement; and
 - (b) the access agreement, including fees.
- (7) There shall be in respect of each vessel licenced to fish under an access agreement, a representative appointed by the vessel owner or operator and maintained within the Republic with authority to receive and respond to process and official communications under this Act on behalf of the owner or operator of the vessel and such representative shall be a resident of the Republic.
- (8) The owner or operator of the vessel shall notify the Authority in writing at the time of application for a fishing vessel licence of the appointment of a representative made under subsection (6), together with his or her name and address and thereafter of any subsequent change of representative.

- (9) Service upon a representative appointed in accordance with this Section shall be deemed to be service upon the owner or operator as the case may be.
- (10) A representative appointed under this Section does not, by virtue only of being appointed a representative, incur any further liability in relation to the vessel or its owner or operator other than that expressly provided for by this Section or by agreement between the owner or operator and the representative.
- (11) Each access agreement negotiated by or on behalf of the Republic shall secure full agreement with the requirements of this Section.
- (12) Any person that engages in fishing or fishing-related activity in contravention of this Section commits an offence and is liable on conviction to a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both.

19 Term of validity of Access Agreement

- (1) The term of validity of an access agreement for foreign fishing vessels shall not exceed 1 year.
- (2) Any access agreement may be terminated by the Authority, according to its terms or upon substantial non-compliance by the other party with any requirement of the access agreement or this Act.
- (3) Fishing and fishing-related activities under any access agreement may be suspended by the Authority upon a determination by the Authority that continued fishing at current levels would seriously threaten the fish stocks, or by such other ground for suspension as may be included in the access agreement.
- (4) Any amendment to an access agreement shall only be valid if it is done in accordance with the terms of such agreement.

20 Fisheries management agreements and arrangements

- (1) The Authority may, on behalf of the Republic, enter into any agreement, arrangement or treaty which has as its purpose cooperation in or coordination of fisheries management measures with other States, intergovernmental organisations, entities and fishing associations, but which does not include an access agreement.
- (2) Fisheries management agreements may, at the Authority's discretion, include the following provisions:
 - (a) authorisation of a person, body or organisation to perform functions required by an access agreement, including the allocation, issuance and denial of fishing licences valid in the region or part thereof, including the exclusive economic zone;
 - (b) an observer programme;

- (c) fisheries monitoring, control and surveillance; and
 - (d) any other matter relating to fisheries management.
- (3) The Authority shall take such measures as may be necessary in accordance with this Act to implement any fisheries management agreement.
- (4) The Authority may enter into a non-binding memorandum of understanding with States, government departments, regional economic integration organisations, regional fisheries management organisations, fishing associations, publicly incorporated companies or an individual, concerning:
- (a) cost sharing arrangements;
 - (b) data sharing arrangements;
 - (c) allocation of administrative responsibilities; and
 - (d) any relevant matter of individual or mutual interest to the participants in the memorandum of understanding.
- (5) Any memorandum of understanding entered into under subsection (4) is non-binding and shall be without prejudice to the terms of any binding treaty or access agreement to which the Republic is a party.

21 Requirement for gear stowage

- (1) The operator of any fishing vessel that is not authorised to undertake fishing or fishing-related activities in the fisheries waters shall ensure where navigating such waters, that all gear or equipment on board is at all times stowed or secured in such a manner that it is not readily available for fishing or fishing-related activities, unless the vessel is authorised to engage in fishing or fishing-related activities in that area of the fisheries waters in accordance with this Act and an applicable access agreement.
- (2) Where any fishing vessel is used in contravention of subsection (1), the operator and master of such vessel each commits a serious offence and is liable on conviction to a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both.

22 Foreign fishing vessels in the fisheries waters

- (1) Subject to subsection (2), a foreign fishing vessel that is in the fisheries waters shall act in accordance with international law and any written law concerning navigation and the protection and preservation of the marine environment.
- (2) An operator of a foreign fishing vessel unlicensed to undertake fishing or fishing-related activities in the fisheries waters navigating through such waters shall submit a report containing the:

- (a) name of the vessel;
 - (b) International Radio Call Sign;
 - (c) flag registration;
 - (d) IMO number or Universal Vessel Identifier;
 - (e) date and time;
 - (f) position, to 1 minute of arc;
 - (g) complement;
 - (h) list of countries in which the vessel holds a valid authorisation to fish;
 - (i) intended activity; and
 - (j) catch on board.
- (3) A report made under subsection (2) shall be submitted to the Chief Executive Officer or his or her nominee electronically:
- (a) at prescribed distance or time intervals prior to entry into the fisheries waters;
 - (b) upon entry into the fisheries waters;
 - (c) at prescribed time intervals while within the fisheries waters;
 - (d) upon departure from the fisheries waters; and
 - (e) at any other prescribed time.
- (4) Where the operator of a foreign fishing vessel navigating through the fisheries waters refuses or otherwise fails to report the information described in subsections (2) and (3), it shall be presumed that all fish found on board such vessel have been caught within the fisheries waters in contravention of this Act unless the contrary is proved.
- (5) The Chief Executive Officer shall work with other agencies in the implementation of subsections (2) and (3) and may in consultation with such agencies issue notices of the reporting requirement for foreign fishing vessels navigating through the fisheries waters.
- (6) Where any foreign fishing vessel is used in contravention of subsection (1), the operator and master of such vessel each commits a serious offence and is liable on conviction to a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both.

23 Cooperation on high seas fishing for highly migratory fish stocks and other fish stocks

The Authority shall, in respect of highly migratory fish stocks and other fish stocks which occur both in the fisheries waters and in the high seas and without prejudice to the sovereign rights and special requirements of the Republic as a small island developing Coastal State, have authority to act on behalf of the Republic to cooperate with other States and States fishing on the high seas in respect of such stocks for the purpose of achieving compatible conservation and management measures.

24 Giving effect to international conservation and management measures

- (1) The Minister shall publish in the Gazette a list of the global, regional or sub-regional organisations or arrangements to which the Republic is a member, a party or a cooperating non-contracting party.
- (2) The Minister shall, upon receiving a recommendation from the Authority, publish a notice in the Gazette, the international conservation and management measures which shall have the force of law in the Republic and on all fishing vessels registered in the Republic and in doing so the notice may specify that only a certain part or parts of an international conservation and management measure shall have such effect.
- (3) The Minister with the approval of the Cabinet may, for the purpose of giving effect to any treaty entered into by the Republic or any international conservation and management measure or arrangement to which the Republic is a party or is a cooperating non-contracting party, make such regulations or by notice in the Gazette attach such conditions to a licence as the Minister may consider necessary or expedient for this purpose.
- (4) A Fishery Management and Development Plan which gives effect to an international conservation and management measure shall have the same effect as regulations made under this Act.
- (5) Where any vessel is used in contravention of this Act, any regulations under this Act, a Fishery Management and Development Plan approved by the Minister or the provisions of an international conservation and management measure notified in the Gazette under this Section:
 - (a) the master, owner, and operator each commit an offence and is liable to a fine not exceeding \$500,000 or imprisonment of 3 years or to both; and
 - (b) the crew members each commit an offence and is liable to a fine not exceeding \$100,000 or an imprisonment term not exceeding 2 years or to both.

PART 3 – REGISTRATION OF FISHING VESSELS

25 Requirements for registration of fishing vessels

- (1) Notwithstanding the requirements for registration under the *Shipping Registration Act 1968* and the *Shipping (Registration of Foreign Vessels) Act 2018*, a fishing and support vessel shall not be registered under those Acts unless all requirements in this Act are satisfied.
- (2) The registration of a fishing vessel under the *Shipping Registration Act 1968* and the *Shipping (Registration of Foreign Vessels) Act 2018* shall be carried out in a manner consistent with obligations under any:
 - (a) international or regional arrangement to which the Republic is a party; and
 - (b) arrangement the Republic is a party to, including international conservation and management measures and resolutions relating to catch and effort limits and the prevention, deterrence, and elimination of illegal, unreported and unregulated fishing or fishing-related activity in support of such fishing.
- (3) For the purposes of verifying any engagement in illegal, unreported and unregulated fishing or fishing-related activity in support of such fishing, a fishing vessel shall not:
 - (a) at any time, be listed on the illegal, unreported and unregulated fishing vessel list of any regional fisheries management organisation or arrangement;
 - (b) have committed any illegal, unreported and unregulated fishing or fishing-related activity in support of such fishing;
 - (c) have been owned by an operator or beneficial owner who is known to have any other vessel on the illegal, unreported and unregulated fishing vessel list of any regional fisheries management organisation or arrangement; or
 - (d) have been operating or have previously operated in a manner inconsistent with any obligations or requirements of international conservation and management measures and resolutions.
- (4) The master, owner or operator of a fishing vessel shall provide true, complete and accurate information for the purpose of this Section.
- (5) A master, owner or operator who contravenes subsection (3) commits an offence and is liable upon conviction to a fine not exceeding \$100,000 or an imprisonment term not exceeding 2 years or both.

26

Requirements of registration of vessels applicable to the Shipping Registration Act 1968 and Shipping (Registration of Foreign Vessels) Act 2018

A person applying for registration under the *Shipping Registration Act 1968* or the *Shipping (Registration of Foreign Vessels) Act 2018* shall:

- (a) demonstrate that the vessel has not been removed from its previous registry, and that there are no outstanding or pending penalties from the flag State of that registry;
- (b) demonstrate that the vessel and its owner or operator have good standing on the Regional Register, Parties to the Nauru Agreement Vessel Register, Western Central Pacific Fisheries Commission Record of Fishing Vessels, Western Central Pacific Fisheries Commission Interim Register of Non-CCM carriers and bunkers or regional fisheries management organisations to which Nauru is a member and such good standing has not been suspended or withdrawn;
- (c) provide a statutory declaration that the vessel and its owner or operator have not engaged in driftnet fishing or fishing-related activities; and
- (d) provide a statutory declaration that the vessel has never been involved with any matters relating to terrorist activity, terrorism or proliferation financing or any such other matters contained in the *Counter Terrorism and Transnational Organised Crime 2004* or the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*; and
- (e) demonstrate that the vessel and its owner or operator have no outstanding or pending judicial issues with any Coastal State of a regional fisheries management organisation to which the Republic is a member.

27

Requirements for operators applying for registration

- (1) An operator of a fishing vessel applying for registration shall:
 - (a) comply with all reporting and monitoring, control, surveillance and enforcement measures, including all relevant and applicable legal requirements stipulated under this Act and any other written law;
 - (b) comply with terms and conditions of licences issued pursuant to this Act;
 - (c) ensure that the fishing vessel installs an approved automatic location communicator and operate such unit properly at all times and report automatically to the Nauru Vessel Monitoring System;
 - (d) pay the prescribed fees;
 - (e) ensure that the fishing vessel fully complies with all applicable international conservation and management measures and resolutions; and
 - (f) undertake that the fishing vessel is to remain under the Nauru flag for a continuous minimum period of 5 years.

- (2) An operator that contravenes this subsection (1) commits an offence and is liable upon conviction to a fine not exceeding \$100,000 or an imprisonment term not exceeding 2 years or to both.

28 Record of Nauru Fishing Vessels

- (1) The Record of Nauru Fishing Vessels is established.
- (2) The Chief Executive Officer shall keep and maintain the Record of Nauru Fishing Vessels.
- (3) Subject to subsection (4), the Record of Nauru Fishing Vessels shall contain information of all fishing vessels entitled to fly the flag of Nauru and that are authorised to fish pursuant to this Act beyond the fisheries waters, including the following information:
 - (a) the vessel's name, previous names if known, registration numbers and port of registry;
 - (b) the vessel's previous flags if any;
 - (c) the vessel's International Radio Call Sign if any;
 - (d) the names, addresses and details of the vessel's beneficial owners and operators;
 - (e) the date of manufacture of the vessel;
 - (f) the place of manufacture of the vessel;
 - (g) the type of vessel;
 - (h) the length of the vessel;
 - (i) the type of fishing method or methods;
 - (j) the moulded depth of the vessel;
 - (k) the beam of the vessel;
 - (l) the gross tonnage and gross registered tonnage of the vessel;
 - (m) the power of the main engine or engines of the vessel;
 - (n) vessel navigation and position fixing equipment;
 - (o) specifications of the mobile transceiver unit of the vessel;
 - (p) processing equipment; and

- (q) intended area of operation, intended port of discharge and species to be targeted.
- (4) The Authority may require further information to be provided if such information is necessary in order for the Republic to comply with:
 - (a) relevant measures adopted by any regional or sub-regional fisheries management organisation; or
 - (b) arrangement of which the Republic is a member.
- (5) The Record of Nauru Fishing Vessels may be in addition to any requirements for registration of vessels entitled to fly the flag of the Republic.
- (6) The owner, operator, charterer, or lessee of a fishing vessel entitled to fly the flag of the Republic, who knowingly provides false information under subsection (3), commits an offence and is liable on conviction to a fine not exceeding \$1,000,000 or a term of imprisonment not exceeding 10 years or both.

29 Disclosure and sharing of information on the Record of Nauru Fishing Vessels

For the purposes of complying with Nauru's international obligations, the Authority may provide to any foreign government, international, regional or sub-regional fisheries management organisation, any information on the Record of Nauru Fishing Vessels including:

- (a) additions to the Record of Nauru Fishing Vessels;
- (b) deletions from the Record of Nauru Fishing Vessels;
- (c) the withdrawal of any authorisation to fish; and
- (d) information that a vessel is no longer entitled to fly the flag of the Republic.

30 Penalties for fishing without providing information

- (1) The owner, operator, charterer or lessee of any fishing vessel entitled to fly the flag of the Republic who engages in fishing or a fishing-related activity beyond the fisheries waters without complying with the requirements of Section 27 commits an offence and upon conviction, is liable to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years or both.
- (2) In addition to the penalty under subsection (1), the Authority may cancel any licence issued, if the vessel has been found guilty of contravening the requirements of this Section.

PART 4 – LICENCES, PERMITS AND AUTHORISATIONS

Division 1 – Grant, Application, Terms and Conditions

31 Requirement for licence to engage in fishing, fishing related and other related activity in the fisheries waters

- (1) A person shall not, except with a licence issued by the Authority, engage in:
 - (a) commercial fishing;
 - (b) game fishing;
 - (c) exploratory fishing;
 - (d) fishing-related activity;
 - (e) the use of an aircraft for fishing; or
 - (f) any other activity regulated by this Act.
- (2) Where any vessel is used in contravention of subsection (1):
 - (a) the master, owner and operator each commits an offence and is liable to a fine not exceeding \$1,000,000 or imprisonment of 10 years or both; and
 - (b) the crew members each commit an offence and is liable to a fine not exceeding \$100,000 imprisonment of 2 years or both.

32 Application for licence

A person intending to engage in any fishing or fishing-related activity under this Act shall submit to the Authority:

- (a) an application for a licence, made in the prescribed form; and
- (b) the prescribed fees, including the application fee and the fee for the specific fishing or fishing-related activity.

33 Grant and issuance of licence

- (1) The Authority may grant licences in accordance with this Act for any purpose which may be prescribed.
- (2) A licence shall be issued in a prescribed form and shall be subject to such terms and conditions required under Section 34 or otherwise authorised under this Act.
- (3) A licence shall not be issued under this Act on one or more of the following grounds:

- (a) the vessel in respect of which a licence is being applied for under this Act has been involved in the commission of a serious offence under this Act;
- (b) the person applying for the licence or the owner, operator or master of the vessel in respect of which a licence is being applied for under this Act has committed or has participated in a serious offence under this Act;
- (c) the ownership of a body corporate or other entity engaged in fishing or fishing-related activity is not clear or is in dispute;
- (d) the vessel in respect of which a licence is being applied for under this Act has been involved in illegal, unreported and unregulated fishing;
- (e) the person applying for the licence or the owner, operator or master of the vessel in respect of which a licence is being applied for under this Act has committed or has been involved in illegal, unreported and unregulated fishing;
- (f) the vessel in respect of which a licence is being applied for under this Act is listed on the IUU fishing list established by a regional fisheries management organisation;
- (g) the vessel in respect of which a licence is being applied for is a vessel that has been identified by the Authority as a vessel that shall not be issued a licence under this Act;
- (h) the person or owner, operator or master of the vessel in respect of which a licence is being applied for under this Act has been identified by the Authority as a person who shall not apply for or hold a licence under this Act;
- (i) the person or owner, operator or master of the vessel in respect of which a licence is being applied for under this Act is insolvent or in the case of a company is in receivership;
- (j) the vessel in respect of which a licence is being applied for under this Act, is a stateless vessel;
- (k) the vessel or a person on or associated in any way with the vessel previously or is engaged in any activity in contravention of a written law;
- (l) the vessel or a person on or associated in any way with the vessel previously or is engaged in any activity in contravention of the *Counter Terrorism and Transnational Organised Crime Act 2004*, *Anti-Money Laundering and Targeted Financial Sanctions Act 2023* and *Proceeds of Crimes Act 2004*;
- (m) for any ground, reason, fact or circumstance rendering a person or vessel incapable of applying for or being issued a licence under this Act;

- (n) a person or vessel in respect of which a licence is being applied for under this Act has not complied with a prescribed requirement; or
- (o) any other prescribed ground.

34 Terms and conditions of licence

- (1) A licence granted under this Act:
 - (a) may be subject to such terms, conditions and endorsements as are imposed by the Authority;
 - (b) subject to subsection (8), comes into force on a date specified in it;
 - (c) subject to this Section, remains in force, until the day on which it expires in accordance with the period approved by the Authority for the class of licence to which it belongs, unless sooner revoked or suspended in accordance with this Act;
 - (d) may be subject to a performance bond issued in accordance with regulations made under this Act for an amount specified in the licence; and
 - (e) shall be subject to the licence fee prescribed for that class of licence.
- (2) Licences for vessels shall be subject to the terms and conditions specified in subsections (3), (4) and (5) and any applicable access agreement.
- (3) The operator of each licenced vessel shall be subject to and ensure compliance with the following licence terms and conditions:
 - (a) the vessel shall fly its national flag at all times;
 - (b) the vessel shall hold a valid registration issued by the flag State and shall not be registered in any other State;
 - (c) the vessel shall display markings in accordance with approval given by the Authority;
 - (d) the continuous monitoring of the international distress and calling frequency 2182 Khz (HF), and the international safety and calling frequency 156.8 MHz (channel 16, VHF-FM) to facilitate communication with the Authority;
 - (e) that a recent and up-to-date copy of the International Code of Signals (INTERCO) is carried on board and accessible at all times;
 - (f) that a recent and up-to-date set of charts showing the fisheries waters is carried on board at all times;

- (g) that such position-fixing, identification, electronic reporting, electronic monitoring and vessel monitoring system equipment as may be required is installed, maintained and fully operational at all times as may be required;
 - (h) compliance with the requirements for other technology to be installed, maintained and fully operational at all times;
 - (i) compliance with all written laws, the terms and conditions of any applicable licence and any applicable access agreement;
 - (j) compliance with all relevant provisions of any written law relating to navigational standards and the safety of vessels at sea;
 - (k) compliance with all written laws relating to food safety;
 - (l) that there is full compliance with such other licence terms and conditions as may be prescribed or otherwise specified in accordance with this Act,
- (4) Where the operator fails to comply with any of the conditions under subsection (3), the Authority may suspend or cancel the licence in accordance with this Act, in addition to any penalty that may be imposed.
- (5) A licenced vessel shall carry the original licence on board the vessel at all times during the licence period, and it shall be the responsibility of the master to produce it to an authorised officer upon request and failure to comply with this condition or any part of it on more than 2 occasions may result in seizure of the vessel in accordance with Section 68, in addition to any penalty that may be imposed, provided that a copy of a licence may be carried in circumstances where it has not been practicable for the original licence to be placed on board the vessel.
- (6) A licenced vessel shall be operated in such a way that customary or artisanal fishing or fishing-related activities are not disrupted or any way adversely affected.
- (7) An aircraft licenced to be used for fishing or fishing-related activities shall be operated in compliance with all applicable written laws and in accordance with the prescribed terms and conditions of the licence.
- (8) Notwithstanding subsection (1)(b) and (d), a licence shall not come into force unless the approved licence fee has been paid and where applicable, a performance bond has been issued.
- (9) A register containing the particulars of the licence granted under this Division, shall be kept and maintained in such manner and at such places as the Authority directs.

35

Suspension or cancellation of licence or authorisation

- (1) The Authority may suspend or cancel a licence or authorisation if:

- (a) it is necessary to do so in order to give effect to any licencing programme or conservation measure specified in or implemented in accordance with a Fishery Management and Development Plan or other applicable plan, strategy or programme;
 - (b) a vessel that is the subject of a licence or authorisation is used in contravention of this Act, condition of licence or any applicable treaty or access agreement;
 - (c) payment has not been made for any charge, penalty, fine or compensation required under this Act;
 - (d) good standing has been withdrawn in respect of the licenced or authorised vessel where such good standing is a condition of licence issuance;
 - (e) the holder of the licence or authorisation has contravened food safety standards or requirements;
 - (f) the holder of the licence or authorisation has contravened any requirement prescribed under this Act.
- (2) For the purpose of subsection (1), a written notification of the cancellation or suspension shall be issued to the licence holder except where subsection (5) applies.
- (3) Where a licence or authorisation has been issued pursuant to a treaty or multilateral access agreement, it may only be suspended or cancelled in accordance with the terms of such treaty or agreement.
- (4) Where a licence or authorisation has been suspended or cancelled on the grounds specified in subsection (1), a proportion of any fees paid for the licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licence holder upon request.
- (5) In the case of a fishing vessel, a notification referred to in subsection (2) may be in writing or by radio, facsimile, email or such other form as the Chief Executive Officer considers appropriate.

36

Appeals of the Authority's decision to refuse a licence

- (1) A person whose application for a licence has been refused by the Authority may appeal to the Minister.
- (2) An appeal under this Section shall be made in writing within 30 days of the date of refusal of the application.
- (3) In the exercise of his or her power to determine an appeal, the Minister shall convene a meeting of the Licence Appeals Committee.

- (4) The Licence Appeals Committee shall comprise a Resident Magistrate, the Secretary of the Department responsible for transport and the Secretary of the Department responsible for environment or their respective nominees.
- (5) The Licence Appeals Committee shall receive a status report of the appeal from the Chief Executive Officer and shall consider the appeal, with the view to arriving at a decision on the appeal.
- (6) A decision of the Licence Appeals Committee shall be presented to the Minister for his or her consideration and the Minister shall thereafter decide as to whether the appeal be allowed or dismissed.
- (7) The decision of the Minister under subsection (6) is final.
- (8) The Chief Executive Officer shall give effect to the decision of the Minister.

37 Foreign fishing licences issued by administrator

Where the terms of an access agreement authorise an administrator to issue a licence for fishing in accordance with its terms in the fisheries waters or a part of the fisheries waters and a valid and applicable licence has been duly issued by such administrator, the vessel is deemed to be licenced under this Act and according to the terms of the access agreement and the licence.

38 National fisheries register of licences and authorisations

- (1) The Authority shall keep and maintain a national fisheries register of licences and authorisations issued under this Act.
- (2) The register shall contain the following information:
 - (a) the nature of the activity licenced or authorised;
 - (b) the particulars of the vessel, or person licenced or authorised;
 - (c) the term of each licence or authorisation;
 - (d) any action taken in respect of the licence or authorisation issued under this Act;
 - (e) the result of any appeal affecting the licence or authorisation considered under Section 36; and
 - (f) any other prescribed matter.

Division 2 – Illegal Fishing and Other Unlicenced Activities

39 Fishing without a licence and non-compliance with the licence

- (1) A person who, without a valid and applicable licence:

- (a) on his or her own account or as the partner, agent or employee of any other person, engages in any activity;
- (b) causes or permits a person acting on his or her behalf to engage in any activity; or
- (c) uses a vessel to engage in fishing or a fishing-related activity,

of a kind or type or at a time or in a place or manner, for which a licence is required under this Act, commits an offence is liable on conviction to payment of a fine not exceeding \$1,000,000 or to a term of imprisonment not exceeding 10 years or to both.

(2) A person who holds a valid and applicable licence and who:

- (a) on his or her own account, or as the partner, agent or employee of any other person, engages in any activity;
- (b) causes or permits a person acting on his or her behalf to engage in activity; or
- (c) uses a vessel to engage in fishing or a fishing-related activity;

in contravention of the terms and conditions of such licence, commits an offence is liable to a fine not exceeding \$1,000,000 or to a term of imprisonment not exceeding 10 years or to both.

(3) For the purposes of this Section, where a person is charged for an act or omission done by an employee or other agent, the act or omission shall be deemed to have also been done by the person charged for the offence.

Division 3 – Fishing by National Fishing Vessels beyond the Fisheries Waters

40 Application of this Division

This Division applies to fishing and fishing-related activity:

- (a) beyond the fisheries waters;
- (b) to any national fishing vessel and any act or omission occurring on or by such a vessel, wherever that vessel may be; and
- (c) to any act or omission by an authorised officer whether within or beyond the fisheries waters.

41 Application for an authorisation to fish beyond the fisheries waters

(1) The operator of a national fishing vessel, who intends to carry out fishing or fishing-related activities beyond the fisheries waters, shall apply to the Authority for an authorisation to fish in respect of that vessel.

- (2) An application for an authorisation to fish is to be:
 - (a) made in the manner and form prescribed; and
 - (b) accompanied by prescribed fees, including the:
 - (i) application fee; and
 - (ii) authorisation to fish fee.
- (3) The application under subsection (2) shall contain the following:
 - (a) the vessel's name, previous names if known, registration numbers and port of registry;
 - (b) the vessel's previous flags if any;
 - (c) the vessel's International Radio Call Sign if any;
 - (d) the names, addresses and details of the vessel's owners and operators;
 - (e) date of manufacture of the vessel;
 - (f) place of manufacture of the vessel;
 - (g) the type of vessel;
 - (h) the length of the vessel;
 - (i) the type of fishing method or methods;
 - (j) the moulded depth of the vessel;
 - (k) the beam of the vessel;
 - (l) the gross tonnage and gross registered tonnage of the vessel;
 - (m) the power of the main engine or engines of the vessel;
 - (n) the vessel's navigation and position fixing equipment;
 - (o) the specifications of the mobile transceiver unit on the vessel;
 - (p) any processing equipment;
 - (q) the intended area of operation, intended port of discharge and species to be targeted;
 - (r) the name and address of an agent based in Nauru who:

- (i) has legal authority to act on behalf of the vessel and its operator; and
 - (ii) is to receive formal communications under this Act;
 - (s) details of the beneficial ownership of the vessel; and
 - (t) any other information or relevant documentation the Authority requires for the purpose of giving effect to international conservation and management measures and resolutions.
- (4) The Chief Executive Officer shall notify the applicant of the decision to issue the authorisation within 30 days of receiving the application.
- (5) A person who provides any information required to be given under this Section which is false commits an offence and upon conviction is liable to a fine not exceeding \$100,000 or to an imprisonment term not exceeding 2 years or to both.
- (6) The Authority may suspend or cancel the authorisation of a person who is convicted of an offence under subsection (5).

42

Consideration of application for authorisation to fish beyond the fisheries waters

- (1) The Authority shall not grant an authorisation under this Section, if he or she is satisfied that:
- (a) the vessel, its owners, charterers or operators are not in good standing on the regional register maintained by the Pacific Islands Forum Fisheries Agency;
 - (b) the vessel is on a list of fishing vessels maintained by a regional fisheries management organisation of vessels that are believed to have engaged in illegal, unreported or unregulated fishing;
 - (c) it has been established that the vessel has been involved in the commission of a serious violation of an international conservation and management measure, until such time as all outstanding sanctions imposed under the written laws in respect of the violation have been complied with; or
 - (d) there is reasonable belief that the vessel has engaged in trafficking of people, firearms or drugs or has treated fish workers and observers on board in a cruel or inhumane manner.
- (2) The Authority may grant an authorisation under this Section if:
- (a) the ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures and resolutions; and

- (b) the new owner has provided sufficient evidence to the Authority demonstrating that the previous owner or operator no longer has any legal, beneficial or financial interest in the vessel.

43 Denial of authorisation to fish beyond the fisheries waters

- (1) The Authority shall not issue an authorisation to fish unless satisfied that the Republic is able to exercise its responsibilities under applicable international conservation and management measures and resolutions with respect to that vessel.
- (2) The Authority shall not grant an authorisation to a vessel, if that vessel was previously authorised to be used for fishing on the high seas by a foreign State, and:
 - (a) the foreign State suspended the authorisation as a result of the vessel undermining the effectiveness of international conservation and management measures and resolutions and the suspension has not expired;
 - (b) the foreign State, within the last 3 years preceding the application for an authorisation under this Section, withdrew the authorisation as a result of the vessel undermining the effectiveness of international conservation and management measures and resolutions; or
 - (c) that at the time of application, the vessel is on a list of vessels maintained by a global or regional fisheries management organisation that are believed to have engaged in illegal, unregulated or unreported fishing.
- (3) A person who provides any information required to be given for the purpose of this Section which is false commits an offence and is liable upon conviction to a fine not exceeding \$500,000 or an imprisonment term not exceeding 3 years or to both.

44 Conditions applying to an authorisation to fish beyond the fisheries waters

- (1) An authorisation shall contain the following conditions:
 - (a) the vessel to which the authorisation to fish relates shall be marked in accordance with this Act;
 - (b) the vessel shall not engage in any activities which undermine the effectiveness of international conservation and management measures and resolutions; and
 - (c) the holder of the authorisation to fish shall report such information as the Authority requires, including the area of fishing operations, vessel position and catch statistics.

- (2) The Authority may, by means of conditions attached to an authorisation, introduce such measures as are necessary and appropriate to implement obligations under the treaties, conventions or other agreements to which the Republic is a party and applicable international conservation and management measures and resolutions including the following:
- (a) the area or areas in which fishing is authorised;
 - (b) the period, times or particular voyages during which fishing is authorised;
 - (c) the descriptions, quantities and size of fish that may be taken;
 - (d) the method of fishing to be undertaken and type of gear to be used;
 - (e) the marking of gear;
 - (f) a requirement that the vessel carry observers on board during fishing operations on the high seas;
 - (g) a requirement that access be permitted to foreign observers;
 - (h) a requirement that an approved mobile transceiver unit be carried, and the requirements governing its operation;
 - (i) measures to be taken to avoid catching non-targeted species;
 - (j) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data;
 - (k) requirements for verifying the catch of target, non-target species and discards;
 - (l) the requirements for the authorisation of transshipments at a designated port including the presence of an observer or port sampler, operation of approved mobile transceiver unit at all times, reporting of catch transhipped by species and quantity, and notifications; or
 - (m) the stowage of gear.
- (3) The Authority may vary any conditions attached to an authorisation if it is satisfied that it is necessary to ensure compliance with the Republic's obligations under a treaty, convention or agreement to which the Republic is a party or in respect of any applicable international conservation and management measures and resolutions.
- (4) If the Authority varies a condition attached to an authorisation, he or she shall notify the agent or the holder of the authorisation of the variation within 30 working days.

- (5) If conditions are varied under subsection (3), the holder of the authorisation shall comply with the conditions within 30 working days after being notified.
- (6) Notwithstanding subsection (5), where it is necessary to implement international conservation and management measures, relating to the living resources of the high seas as a matter of urgency, the Authority may set a period of not less than 30 working days by which time compliance with the conditions of a licence varied under subsection (3), shall be observed.
- (7) If the operator of the vessel is not in the Republic, the agent of the vessel, is deemed to be the operator of the vessel for the purposes of the institution of proceedings for an offence committed by such vessel.
- (8) An authorisation to fish beyond the fisheries waters is not transferrable.

45 Period of validity of an authorisation to fish beyond the fisheries waters

- (1) An authorisation is valid for a period of not more than 1 year.
- (2) An authorisation to fish is void in the event that the vessel in respect of which it was granted is no longer entitled to fly the flag of the Republic.

46 Suspension or cancellation of an authorisation

- (1) The Authority may suspend or cancel an authorisation if:
 - (a) it appears to him or her that it is necessary to do so for the conservation or management of living marine resources in the high seas;
 - (b) he or she has reason to believe that the vessel has engaged in illegal, unreported or unregulated fishing;
 - (c) he or she has reason to believe that the vessel has been used in the commission of a serious violation of an international conservation and management measure; or
 - (d) the vessel has been involved in trafficking of people, trafficking of firearms, drug trafficking, or has treated fish workers and observers on board in a cruel or inhumane manner.
- (2) The Authority shall prior to the suspension or cancellation of an authorisation under subsection (1), inform the holder of the authorisation:
 - (a) by written notice of the intention to suspend or cancel, giving reasons for such action; and
 - (b) require the holder of the authorisation to make written response to the written notice.

(3) The Authority shall consider the written response made under subsection (2)(b), in deciding whether or not to suspend or cancel an authorisation under subsection (1).

(4) The decision of the Authority made under subsection (1), shall be final.

47 Fishing in contravention of an authorisation to fish beyond the fisheries waters

(1) Where a national fishing vessel is used without an authorisation or in contravention of the terms and conditions of the authorisation, the master, owner, charterer and operator of the vessel each commits an offence and are jointly and severally liable to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years or both.

(2) In addition to the penalty under subsection (1), the court may also order the confiscation of the vessel concerned.

Division 4 – Use of fishing vessels on the high seas and in other jurisdictions

48 Use of vessels of other flags by Nauruan citizens or Nauruan corporations or companies on the high seas

(1) A citizen of Nauru or a Nauruan corporation shall not use a vessel registered in any other country for fishing or fishing-related activities on the high seas, except in accordance with a qualifying authorisation issued by the flag State.

(2) A qualifying authorisation may be issued by:

(a) a State that is a party to the United Nations Fish Stocks Agreement;

(b) a State that is a party to or has accepted the obligations of a global, regional or subregional fisheries organisation or arrangement; or

(c) a State that:

(i) is a party to the United Nations Fish Stocks Agreement; and

(ii) has legislative and administrative mechanisms to control its vessel on the high seas in accordance with that agreement.

(3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$1,000,000 or to a term of imprisonment not exceeding 10 years or both.

49 Use of national fishing vessels in the jurisdiction of any other State

(1) A person shall not use a fishing vessel for fishing or fishing-related activities:

(a) in an area under the national jurisdiction of a foreign country except in accordance with the laws of that country and with an authorisation issued in accordance with this Part;

- (b) in an area subject to a multilateral access agreement or related agreement, except in accordance with that agreement;
 - (c) on the high seas except in accordance with an authorisation to fish issued in accordance with this Part; or
 - (d) in an area subject to international conservation and management measures and resolutions, except in accordance with those measures.
- (2) Where a vessel is used in contravention of subsection (1), the operator and master of such vessel each commits an offence and upon conviction is liable to a fine not exceeding \$500,000 or by a term of imprisonment not exceeding 3 years or both.

Division 5 – Requirements for the Charter of fishing vessels

50 Charter of fishing vessels by citizens

- (1) Notwithstanding the requirements under the *Shipping Registration Act 1968* or the *Shipping (Registration of Foreign Vessels) Act 2018*, a citizen of Nauru who intends to charter a fishing vessel for the purposes of fishing or related activities:
- (a) within the fisheries waters; or
 - (b) beyond the fisheries waters,
- shall apply to the Authority for a relevant fishing licence if the fishing or related activities is to be within Nauru waters or an authorisation, if the fishing or related activities is to take place beyond Nauru waters.
- (2) An application made under subsection (1) shall:
- (a) be made in the prescribed form; and
 - (b) be accompanied by any prescribed fees including:
 - (i) the application fee; and
 - (ii) the authorisation to charter fee.
- (3) A licence or authorisation may be granted for the duration of the charter-party agreement or such lesser period as determined by the Authority.
- (4) The Authority shall not grant a licence or an authorisation in respect of an application made pursuant to subsection (1) if:
- (a) the fishing vessel is listed on the IUU vessel list of any regional fisheries management organisation or arrangement;

- (b) the fishing vessel has committed any IUU fishing or fishing-related activity in support of such fishing;
 - (c) the fishing vessel is owned or was previously owned by an operator or beneficial owner who is known to have any other vessel on the IUU vessel list of any regional fisheries management organisation or arrangement;
 - (d) the fishing vessel has been operating, or has previously operated in a manner inconsistent with any obligations or requirements of international conservation and management measures and resolutions;
 - (e) the fishing vessel has been operating, or has previously operated in a manner inconsistent with any treaty or arrangement to which the Republic is party;
 - (f) the charter of the fishing vessel is prohibited under any requirement of the *Shipping Registration Act 1968*, the *Shipping (Registration of Foreign Vessels) Act 2018* or any other written law; and
 - (g) the authorisation of the charter will contribute to excess fishing capacity in a fishery.
- (5) When considering an application for an authorisation to charter, the Chief Executive Officer shall be satisfied that:
- (a) in the case of the charter of a foreign fishing vessel, the applicant demonstrates that the charter of such vessel is permitted under the laws of the flag State;
 - (b) there are no outstanding or pending penalties from the flag State or other State with respect to the vessel; and
 - (c) the vessel has good standing on the Regional Register or Record of Fishing Vessels of regional fisheries management organisations to which the Republic is a member and such good standing has not been suspended or withdrawn.

51 Requirements for operator of chartered vessel

- (1) The operator of a fishing vessel operating under a charter agreement and applying for a game fishing licence, national licence or authorisation shall:
- (a) comply with all reporting, monitoring, control and surveillance measures, including all relevant and applicable legal requirements stipulated under this Act;
 - (b) if the vessel is used for fishing or a fishing-related activity beyond the fisheries waters, comply with terms and conditions of the authorisation to fish;

- (c) ensure that the fishing vessel has an approved mobile transceiver unit installed and the operator is able to operate the unit properly at all times and report automatically to the Nauru Vessel Monitoring System;
 - (d) pay the prescribed fees;
 - (e) ensure that the fishing vessel fully complies with all applicable conservation and management measures and resolutions;
 - (f) ensure that the fishing vessel fully complies with all written laws; and
 - (g) provide a copy of the charter-party agreement to the Chief Executive Officer.
- (2) An operator of a chartered vessel that contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$100,000 or an imprisonment term not exceeding 2 years or both.

52 Application by non-citizen for authorisation to charter a national fishing vessel beyond the fisheries waters

- (1) A person, who intends to charter a national fishing vessel for the purposes of fishing or fishing-related activities beyond the fisheries waters, shall apply to the Authority for an authorisation.
- (2) An application for an authorisation shall be:
 - (a) made in the form prescribed; and
 - (b) accompanied by any prescribed fees.
- (3) An authorisation beyond the fisheries waters may be granted for the duration of the charter-party agreement or to such lesser period determined by the Authority.
- (4) In granting an authorisation, the Authority may specify the area in which the vessel may be used for fishing or fishing-related activity.
- (5) The Authority shall not grant an authorisation beyond Nauru waters, if the charter of the fishing vessel is prohibited under any requirement of the *Shipping Registration Act 1968* or the *Shipping (Registration of Foreign Vessels) Act 2018*.
- (6) In considering an application for an authorisation, the Authority shall be satisfied that:
 - (a) the applicant demonstrates that the charterer has not chartered, owned or previously owned a vessel on the IUU vessel list of any regional fisheries management organisation or arrangement;

- (b) the applicant demonstrates that the charterer has not been operating or has not previously operated in a manner inconsistent with any obligations or requirements or international conservation and management measures and resolutions or treaty under this Act;
- (c) there are no outstanding or pending penalties imposed by any other State with respect to the vessel; and
- (d) the vessel has good standing on the Regional Register or Record of Fishing Vessels of regional fisheries management organisations to which the Republic is a member and such good standing has not been suspended or withdrawn.

53 Suspension or cancellation of charter authorisation

The Authority may suspend or cancel a licence or charter authorisation issued under this Part on any of the following grounds:

- (a) the operator has contravened a term or condition of the authorisation;
- (b) the operator has contravened any provision of this Act;
- (c) the operator has committed a serious offence; or
- (d) any other ground determined by the Authority.

PART 5 – FOOD SAFETY, LEGALITY OF FISH AND TRADE

Division 1 – Competent Authority

54 Audit, Certification and Trade

- (1) For the purposes of compliance with international standard setting bodies and requirements under written laws, the Chief Executive Officer is recognised as the Competent Authority.
- (2) The Competent Authority shall have a common seal for the purposes of implementing its objectives and functions.
- (3) The Competent Authority has the following objectives:
 - (a) to verify and certify the import and export of fish and fish products;
 - (b) to ensure the application of appropriate food safety measures and fish production industry standards; and
 - (c) to ensure the facilitation of exports from the Republic of all categories of fish and fish products for human consumption.

55 Specific functions and powers of the Competent Authority

- (1) The Competent Authority has the following functions:

- (a) to verify the operation of licenced fish processing establishments, and any licenced fishing vessels where required by written law;
- (b) to monitor, regulate and control all exports and imports of fish and their parts and products including fresh, frozen and processed fish to ensure that the fish and their parts and products are fit for their intended purpose;
- (c) to make recommendations to the Authority with regard to licencing in accordance with this Act;
- (d) to inspect and certify exports of fish products originating in the Republic;
- (e) to inspect and certify imports of fish products originating outside of the Republic;
- (f) to oversee the certification of fish discharged from national flagged vessels into foreign ports where required by overseas controlling authorities;
- (g) to monitor the authorisation of transhipment of fish from national flagged vessels beyond the fisheries waters;
- (h) to oversee the certification of fish landed or transhipped by national fishing vessels and foreign fishing vessels in ports or designated areas within the Republic;
- (i) to liaise with fish establishment operators, other government agencies and importing country authorities with regard to fish safety and market access requirements;
- (j) to provide official assurances to importing country authorities of the safety of food and legality of fish and fish products for export;
- (k) to provide permits for fish processed by a licenced establishment being taken overseas for personal use;
- (l) to undertake all necessary actions to ensure that any fish and their parts and products that are to be exported are fit for their intended purpose so as to provide official assurance to meet the export requirements of importing countries;
- (m) to provide verification and inspection information and services to individuals, agencies and other organisations within the Republic and overseas in respect of fish products exports;
- (n) to conduct risk assessments; and
- (o) to perform such other functions as may be conferred by the Authority or under this Act or any other written law.

- (2) For the purposes of performing its functions, the Competent Authority may, with the prior approval of the Authority and on such terms and conditions as the Authority considers fit, enter into arrangements with other technical and competent authorities and such other bodies as necessary.
- (3) The Competent Authority shall have all the powers necessary for the performance of its functions under this Section.

56 Fish Inspectors

- (1) The Minister may, by notice in the Gazette, appoint:
 - (a) any employee of the Authority; or
 - (b) such other persons or class of persons as he or she considers appropriate,to be a Fish Inspector for the purpose of enforcing this Act.
- (2) A Fish Inspector in exercising any power conferred by this Act shall, upon request, identify himself or herself and produce evidence that he or she is a Fish Inspector.
- (3) The production by a Fish Inspector of any identification document issued to him or her shall, unless the contrary is proved, be sufficient authority for any such Fish Inspector to do anything which he or she is authorised by this Act to do.
- (4) A Fish Inspector appointed under subsection (1) shall exercise such powers and functions identified in their notice of appointment or as the Authority specifies by written notice to such officer at a later time.

57 Powers of Fish Inspectors

- (1) A Fish Inspector may, in the performance of inspection, monitoring, audit and certification functions under this Act, without notice and without warrant:
 - (a) enter any premises where fish is being processed, cut up, stored, sold, handled, held or in any way processed;
 - (b) inspect, examine, sample or perform any kind of test or examination on any fish or fish product in any form;
 - (c) inspect and examine any catch documentation relating to any fish or fish product to ensure compliance with catch documentation requirements under this Act;
 - (d) cut, remove, detain, seize, recall or destroy any fish or fish product not fit for human consumption or not suitable for export;
 - (e) permanently or otherwise mark, brand, dye or label any fish or fish product or package containing any such product;

- (f) make or impose any relevant citation, order, instruction, condition or penalty;
 - (g) interrupt, suspend or prohibit actions or operations wherever fish or fish product is being cut-up, stored, sold or in any way processed;
 - (h) enter processing premises to carry out catch monitoring and verification activity;
 - (i) board, enter and stay on board:
 - (i) any vessel in designated ports in the Republic to monitor the transshipment and landing activity;
 - (ii) national flagged vessels beyond the fisheries waters to monitor the transshipment and landing activity; or
 - (iii) national flagged vessels beyond the fisheries waters to monitor the transshipment and landing activity in foreign ports where required by overseas controlling authorities;
 - (j) at all reasonable times board and inspect any fishing vessels in designated ports in the Republic to determine whether port use should be authorised.
- (2) A Fish Inspector may exercise such other powers of authorised officers under Section 66.
- (3) A Fish Inspector is not personally liable for anything done or omitted to be done in good faith in the course of exercising powers or carrying out duties under this Act.

Division 2 – Trade in Fish and Fish Products

58 Export of fish and fish products

- (1) A person shall not export fish or fish products, except with a licence and such other certification required under this Part.
- (2) A person intending to export fish or fish products shall apply for a licence in the prescribed form for a consignment and pay the prescribed fee in accordance with the following categories:
 - (a) commercial;
 - (b) commercial samples;
 - (c) fisheries scientific research; and

- (d) personal use or consumption, provided that the amount of fish or fish product intended for export does not exceed the prescribed limit per travelling person.
- (3) A person intending to export fish or fish products shall comply with all requirements and conditions endorsed on a licence, including the provision of information on the:
- (a) area where the fish was caught and transhipped, where transhipment of all or portion of the catch has occurred;
 - (b) details of the person that caught the fish;
 - (c) if a fishing vessel, details of the fishing vessel, including the owner or operator of a chartered fishing vessel where applicable, the master, crew list, observer and species composition of fish caught during the fishing trip;
 - (d) if a fishing vessel, details of the vessel involved in fishing-related activity;
 - (e) licence or fishing authorisation number;
 - (f) a fishing vessel, quota or allocation for the vessel, where applicable;
 - (g) description of the fish or fish product;
 - (h) purchaser of the fish or fish product;
 - (i) purchase price of the fish or fish product; and
 - (j) any other prescribed information.
- (4) A licence to export fish or fish products may be denied by the Authority if the:
- (a) Chief Executive Officer or officers designated by the Chief Executive Officer have reasonable cause to suspect that the fish or fish product are not fit for their intended purpose;
 - (b) fish or fish products to be exported have been caught in contravention of this Act, the laws of any other State or an international conservation and management measure; or
 - (c) documents and information provided do not satisfy the import requirements of an importing country.
- (5) The Authority may, by notice in the Gazette, declare standards applicable to the harvesting, processing, marketing, distribution, transport, export and trade in fish and fish products and in like manner, declare minimum standards for the merchantable quality of fish and fish products.
- (6) Any person who:

- (a) exports fish or fish products without a licence and export approval;
- (b) fails to comply with the terms and conditions of a licence;
- (c) forges or falsifies an export licence or related documentation;
- (d) fails to comply with the standards declared under subsection (5);
- (e) fails to provide true, complete or correct information; or
- (f) otherwise contravenes or fails to comply with this Section,

commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years or to both.

59 Import of Fish and Fish Products

- (1) A person shall not import fish or fish products except with a permit issued by the Quarantine Division of the Department of Justice and Border Control and in accordance with such standards published by the Authority by notice in the Gazette.
- (2) A person intending to import fish or fish products shall apply for a permit in the prescribed form for a consignment and pay the prescribed fee in accordance with the following categories:
 - (a) commercial;
 - (b) commercial samples; and
 - (c) personal use or consumption, provided that the amount of fish or fish product intended for import does not exceed the prescribed limit per travelling person.
- (3) A person intending to import fish or fish products shall comply with all requirements and conditions endorsed on a permit, including the provision of information on the:
 - (a) area where the fish was caught and transhipped, where transhipment of all or portion of the catch has occurred;
 - (b) details of the person that caught the fish;
 - (c) if a fishing vessel, details of the fishing vessel, including the owner or operator of a chartered fishing vessel where applicable, the master, crew list, observer and species composition of fish caught during the fishing trip;
 - (d) if a fishing vessel, details of the vessel involved in fishing-related activity;

- (e) licence or fishing authorisation number;
 - (f) if a fishing vessel, quota or allocation for the vessel, where applicable;
 - (g) description of the fish or fish product;
 - (h) purchaser of the fish or fish product;
 - (i) purchase price of the fish or fish product; and
 - (j) any other prescribed information.
- (4) A permit to import fish or fish products may be denied by the Authority if the:
- (a) Chief Executive Officer or officers designated by the Chief Executive Officer have reasonable cause to suspect that the fish or fish product are not fit for their intended purpose;
 - (b) fish or fish product to be imported have been caught in contravention of this Act, the laws of any other State or an international conservation and management measure; or
 - (c) documents and information provided do not satisfy the import requirements of an importing country.
- (5) The Minister with the approval of the Cabinet may, by notice in the Gazette, declare standards applicable to the marketing, distribution, transport, import and trade in fish and fish products, and in like manner, declare minimum standards for the merchantable quality of fish and fish products.
- (6) Any person who:
- (a) imports fish or fish products without a permit;
 - (b) fails to comply with the terms and conditions of a permit;
 - (c) forges or falsifies an import permit or related documentation;
 - (d) fails to comply with the standards declared under subsection (5);
 - (e) fails to provide true, complete or correct information; or
 - (f) otherwise contravenes or fails to comply with this Section,
- commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years or both.

60 Requirement for seafood health certificate

- (1) An export licence to export fish or fish products for a commercial purpose shall not be issued except with the production of a catch certificate issued in

accordance with Section 61 and a seafood health certificate issued in accordance with this Section.

- (2) Subsection (1) shall not apply to fish or fish products exported for personal use or consumption that do not exceed the prescribed limit per travelling person.
- (3) An application for a seafood health certificate shall be made to the relevant authority of the Republic.
- (4) The Chief Executive Officer shall collaborate with the relevant authority of the Republic to ensure that a seafood health certificate is not to be issued, unless the:
 - (a) fishing vessel satisfies health requirements; and
 - (b) fishing vessel has not been operating or has not previously operated in a manner inconsistent with any obligation in an international conservation and management measure.
- (5) A seafood health certificate issued shall:
 - (a) be signed by the relevant authority of the Republic;
 - (b) have the approved official stamp of such authority affixed upon it; and
 - (c) include additional information, where required from a foreign regulatory authority of an importing country provided that such information is consistent with this Act.
- (6) The Chief Executive Officer shall collaborate with the relevant authority of the Republic to ensure that a seafood health certificate shall not be issued:
 - (a) unless the fish or fish products have been processed in a licenced or approved fish processing facility;
 - (b) there is reasonable cause to suspect that the fish or fish products are not fit for their intended purpose; or
 - (c) the verified documents and information provided do not satisfy the fish traceability requirements of an importing country.
- (7) Any person who:
 - (a) exports fish or fish products without a seafood health certificate;
 - (b) forges or falsifies a certificate;
 - (c) fails to provide true, complete or correct information; or
 - (d) otherwise contravenes or fails to comply with this Section,

commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years or both.

61 Requirement for catch certificate

- (1) An export licence to export fish or fish products for a commercial purpose shall not be issued except with the production of a catch certificate issued at the point of unloading in accordance with this Section.
- (2) Subsection (1) shall not apply to fish or fish product exported for personal use or consumption that does not exceed the prescribed limit per travelling person.
- (3) An application for a catch certificate identified in subsection (1) shall be:
 - (a) made in the prescribed form;
 - (b) accompanied by the prescribed fee; and
 - (c) accompanied by any other information required by the Chief Executive Officer.
- (4) A catch certificate shall not be issued, unless the Chief Executive Officer is satisfied that the:
 - (a) fish or fish product have been caught by a national fishing vessel or fishing vessel under a charter to a national of the Republic or foreign fishing vessel;
 - (b) fishing vessel is not listed on the illegal, unreported and unregulated fishing vessel list of any regional fisheries management organisation or arrangement;
 - (c) fishing vessel has not committed any illegal, unreported and unregulated fishing or fishing-related activity in support of such fishing;
 - (d) fishing vessel is not owned or previously owned by an operator or beneficial owner who is known to have any other vessel on the illegal, unreported and unregulated fishing vessel list of any regional fisheries management organisation or arrangement;
 - (e) fishing vessel has not been operating or has not previously operated in a manner inconsistent with any obligation in an international conservation and management measure.
- (5) A catch certificate issued shall:
 - (a) be signed by the Chief Executive Officer or nominee;
 - (b) have the approved official stamp affixed upon it; and

(c) include additional information, where required from a foreign regulatory authority of an importing country provided that such information is consistent with this Act.

(6) A catch certificate shall not be issued:

(a) unless the prescribed fee has been paid;

(b) unless the fish or fish product have been processed in a licenced or approved fish processing facility;

(c) if the Chief Executive Officer has reasonable cause to suspect that the fish or fish product are not fit for their intended purpose; or

(d) the verified documents and information provided do not satisfy the fish traceability requirements of an importing country.

(7) Any person who:

(a) exports fish or fish products without a certificate of catch;

(b) forges or falsifies such certificate;

(c) fails to provide true, complete or correct information; or

(d) otherwise contravenes or fails to comply with this Section,

commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 2 years or both.

62 Labelling of fish and fish products

(1) A person shall not import, export or transport any container or package containing any fish or fish product unless the container or package has previously been plainly marked, labelled, sealed or tagged in accordance with the prescribed requirements for marking.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years or both.

63 Prohibition of seafood fraud

(1) A person shall not:

(a) mislabel, misclassify, make or submit any false record, account or label for or any false identification of, any fish or fish product;

(b) misrepresent or otherwise provide false, incorrect or misleading information regarding any fish or fish product; or

- (c) engage in species substitution of any fish or fish product,
which has been or is to be marketed, imported, exported, transported, sold,
purchased or received.
- (2) A person shall not engage in any practice, including the application or addition
of any substance upon or to fish or fish products, to increase weight or
improve the appearance in grade and quality of such fish or fish products than
it actually is.
- (3) A person shall not intermix fish or fish products which have been or are to be
marketed, imported, exported, transported, sold, purchased or received.
- (4) Any person who contravenes this Section commits an offence and is:
 - (a) liable to a fine not exceeding \$500,000 or to a term of imprisonment not
exceeding 5 years or to both; or
 - (b) where the commission of the offence results directly or indirectly in
serious injury or death, liable to a fine not exceeding \$1,000,000 or to a
term of imprisonment not exceeding 10 years or both.

PART 6 – MONITORING, CONTROL, SURVEILLANCE AND ENFORCEMENT

Division 1 – Enforcement

64 Authorised officers

- (1) The Minister may, by notice in the Gazette, appoint:
 - (a) any employee of the Authority; and
 - (b) such other persons or class of persons as he or she considers
appropriate,to be authorised officers for the purpose of enforcing this Act.
- (2) The appointment of any authorised officer in accordance with subsection (1)
may:
 - (a) limit the exercise of any powers and functions of an authorised officer to
a specific area or period of time; or
 - (b) be limited in such other way as the Minister specifies.
- (3) Members of the Nauru Police Force are deemed to be authorised officers for
the purposes of this Act.

- (4) An authorised officer in exercising any power conferred by this Act shall, upon request, identify himself or herself and produce evidence that he or she is an authorised officer.
- (5) The production by an authorised officer of any identification document issued to him or her shall, unless the contrary is proved, be sufficient authority for any such authorised officer to do anything which he or she is authorised by this Act to do.
- (6) An authorised officer appointed under subsection (1) shall perform such functions or exercise such powers identified in the notice of appointment or as the Authority specifies by written notice to such officer at a later time.

65 Offences as cognisable offences

For the purposes of Section 10 of the *Criminal Procedure Act 1972*, an offence under this Act is a cognisable offence.

66 General powers of authorised officers

- (1) An authorised officer may take all reasonable steps in his or her powers under this Act or any other written law and give such directives as are reasonably necessary for the purposes of exercising any of his or her powers.
- (2) The powers of an authorised officer under this Act are exercisable:
 - (a) within the Republic;
 - (b) in the fisheries waters; and
 - (c) beyond the fisheries waters,in relation to any conduct whether or not that conduct occurred in the fisheries waters and in accordance with any international conservation and management measure, applicable bilateral or multilateral treaty, or arrangement, to which the Republic is a party.
- (3) Subsection (2)(c) does not authorise an authorised officer to exercise any power under this Act in respect to any foreign fishing vessel or any person aboard any such vessel unless the authorised officer:
 - (a) believes on reasonable grounds that any person on board the vessel has committed an offence in the fisheries waters;
 - (b) is in hot pursuit of or has recently pursued a vessel; and
 - (c) commenced that pursuit in the fisheries waters.
- (4) An authorised officer may exercise any powers beyond the limits of the fisheries waters in respect to any foreign fishing vessel or person aboard any such vessel and relating to fisheries inspection, compliance or enforcement

provided that the exercise of those powers is authorised by a treaty, an access agreement or other arrangement to which the Republic is a party and implemented in the Republic by a written law or notification in the Gazette or is otherwise authorised under international law.

67 Powers of entry and search

- (1) In the course of the enforcement and administration of this Act, an authorised officer may, at any reasonable time in Nauru and in the fisheries waters, without warrant:
 - (a) stop, enter, board or examine any vessel or vehicle or enter and examine any premises or place or examine any record, document, article and any gear, apparatus, device or contents of any kind therein;
 - (b) stop any person and examine any record, document, article, container, gear, apparatus, device or fish in the possession of that person; and
 - (c) pass across any land.
- (2) If an authorised officer believes, on reasonable grounds that an offence is being or has been committed against this Act and that:
 - (a) any fish taken or thing used or intended to be used in contravention of this Act;
 - (b) any record or information required by or under this Act to be kept, completed or provided; or
 - (c) any article, record, document or thing for which there is reasonable ground to believe will be evidence as to the commission of an offence against this Act, may be concealed or located or held in any vessel, vehicle, conveyance of any kind, premises, place, parcel, package, record or thing, then,

that authorised officer may, without warrant, at any reasonable time enter or pass across any land in order to enter, examine, and search any such premises or place or any such vessel vehicle, or conveyance of any kind and may examine and search, by stopping or opening where necessary any such parcel, package, record or thing.
- (3) An authorised officer may detain any person, vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish or thing for such period as is reasonably necessary to enable the authorised officer to carry out an examination or search under this Section.

68 Power of seizure

- (1) An authorised officer may seize without warrant:

- (a) any vessel, vehicle or other conveyance, fishing equipment, implement, appliance, material, container, goods, equipment, or thing which the authorised officer believes on reasonable grounds is being or has been used in the commission of an offence against this Act;
 - (b) any fish which the authorised officer believes on reasonable grounds are being or have been taken, killed, transported, bought, sold or found in possession of any person in contravention of this Act;
 - (c) any fish with which fish taken under paragraph (b) have been intermixed; or
 - (d) any article, record, document or thing which the authorised officer believes on reasonable grounds is evidence of the commission of an offence against this Act.
- (2) The authorised officer shall provide a written receipt in respect of anything seized under subsection (1) to the person from whom the items were seized.
 - (3) A receipt issued under subsection (2), and a duplicate or copy of such receipt, shall be signed by the authorised officer and the person from whom the items were seized.
 - (4) Any property seized under subsection (1) shall be dealt with in accordance with this Act or on such directions of the Supreme Court.

69 Power to question persons and require production of documents

- (1) For the purpose of the enforcement of this Act, if an authorised officer believes on reasonable grounds that a person is or has been engaged in the taking or selling of fish, has purchased, is or has been in possession of fish or is committing or has committed an offence against this Act, the authorised officer may, at any reasonable time question that person or any other person, and:
 - (a) require the person being questioned to provide an answer, including any explanation or information concerning any vessel, or any place or thing, or any fish or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, purchase, or possession of any fish; and
 - (b) require that person or any other person to produce any permit, authority, approval, permission, licence, or certificate issued in respect of any vessel or person.
- (2) Nothing in subsection (1) shall be construed so as to require any person to answer any question tending to incriminate him or her.

70 Power of arrest

- (1) For the purpose of the enforcement of this Act an authorised officer may, if he or she believes on reasonable grounds that any person has committed an offence or is likely to commit an offence in contravention of this Act, shall:
 - (a) order that person to forthwith desist from offending;
 - (b) request that person to supply the name by which that person is commonly known and the person's family name or surname, date of birth, actual place of residence and occupation; or
 - (c) arrest that person without warrant.
- (2) If an authorised officer arrests a person under subsection (1) the authorised officer shall cause the person to be delivered into the custody of a member of the Police as soon as practicable and the provisions of the *Criminal Procedure Act 1972* shall apply.
- (3) If the offence in respect of which the person has been arrested carries a maximum penalty not exceeding \$500,000 that person shall not be bailable as of right.

71 Power to give directions to master

- (1) For the purpose of the enforcement of this Act, an authorised officer may, if he or she believes that a vessel is being or has been used in contravention of the provisions of this Act or of the conditions of any permit, permission, licence, registration, or certificate issued under this Act, require the master to take the vessel, as soon as practicable, to the nearest available port in the Republic or designated area in the fisheries waters or such other port as is agreed between the master and the authorised officer.
- (2) If an authorised officer has given a direction under subsection (1), he or she may also give to the master or any person on board the vessel any reasonable directions in respect of any activity, method, procedure, item, gear, document, fish, property or thing while the vessel is proceeding to port.

72 Power pursuant to treaty or measure

- (1) An authorised officer may exercise any powers beyond the limits of the fisheries waters in respect to any foreign fishing vessel or person aboard any such vessel and relating to fisheries inspection, compliance or enforcement provided that, the exercise of those powers is authorised by a treaty, a multilateral access agreement, other bilateral or multilateral legal treaty to which the Republic is party and such treaty or agreement is implemented in the Republic by regulation or notification in the Gazette or is otherwise authorised under international law.
- (2) An authorised officer or such other person so designated by the Minister may exercise any powers beyond the limits of the fisheries waters, including in areas under the sovereignty of any other State, in respect to any national

fishing vessel or person aboard any such vessel and relating to fisheries inspection, compliance or enforcement provided that the exercise of those powers is authorised by a treaty, other bilateral or multilateral agreement to which the Republic is party.

- (3) An authorised officer who performs duties in areas beyond the fisheries waters in accordance with this Act, any treaty, fisheries management agreement or international conservation and management measures, shall, unless the contrary is provided, continue to be subject to all provisions of this Act and all responsibilities and duties of operators, crew members or other relevant persons to such authorised officer under this Act shall be applicable.

73 Seizure of vessels, vehicles and aircraft

- (1) Where a vessel is seized under Section 68, the authorised officer may bring the vessel, or require the master who was in charge of the vessel immediately before it was seized, to bring the vessel to a place which he or she specifies in the Republic or in the fisheries waters and the vessel may be detained pending the outcome of any proceedings under this Act or its release on bond or other security under Section 76.
- (2) Where the master brings the vessel to the specified place, he or she shall be responsible for the safety of the crew vessel, himself or herself and any other person on board the vessel.
- (3) Where the master fails or refuses to take the vessel to the specified place, an authorised officer may take charge of the vessel for the purpose of bringing it to the specified place.
- (4) Where a vessel is brought to a specified place by an authorised officer under subsection (3), no claim whatever may be made against any authorised officer, the Authority or the Republic in respect of any death, injury, loss or damage occurring while the vessel is being brought to the specified place.
- (5) Where a vehicle or aircraft is seized under Section 68, the driver or pilot shall take the vehicle or aircraft to a place in the Republic which the authorised officer specifies as being the nearest or most convenient place for the holding of the vehicle or aircraft and the vehicle or aircraft may be detained pending the outcome of any proceedings under this Act or its release under Section 76.
- (6) In bringing the vehicle or aircraft to the specified place, the driver or pilot shall be responsible for the safety of the vehicle or aircraft, its passengers, crew and any other person on board the vehicle or aircraft.
- (7) Where the driver or pilot fails or refuses to take the vehicle or aircraft to the specified place, an authorised officer may take charge of the vehicle or aircraft for the purpose of bringing it to the specified place.

- (8) Where a vehicle or aircraft is brought to a specified place by an authorised officer under subsection (7), no claim whatever may be made against any authorised officer, the Authority or the Republic in respect of any death, injury, loss or damage occurring while the vehicle or aircraft is being brought to the specified place.

74 Immobilisation of vessel, vehicle or aircraft

- (1) Having regard to the safety of the vessel, vehicle or aircraft, an authorised officer may take steps to immobilise any vessel, vehicle or aircraft seized, taken or detained in custody under this Act.
- (2) The steps referred to in subsection (1) include removing any part from the vessel vehicle or aircraft, for the purpose of preventing its taking by any person prior to its release under Section 76 or by the court.
- (3) A part removed under subsection (2) shall be kept safely and returned to the vessel, vehicle or aircraft immediately upon its lawful release from custody.

75 Disposal of seized fish and other things

- (1) Where any fish or other thing of a perishable nature is seized under Section 68, the Chief Executive Officer may:
- (a) return the fish or other thing to the person from whom it was seized on receiving security that, in his or her opinion, represents its equivalent value;
 - (b) sell the fish or other thing at reasonable market value; or
 - (c) where he or she is unable to sell the fish or other thing at reasonable market value, or where the fish or other thing is unfit for sale, dispose of it in such other manner as he or she considers fit.
- (2) Where any equipment is seized under Section 68, the Chief Executive Officer may return the equipment to the person from whom it was seized on receiving security that, in his or her opinion, represents its market value.
- (3) Where court proceedings relating to any fish or thing referred to in subsection (1) or equipment referred to in subsection (2) are instituted, the Chief Executive Officer shall pay into court any security or proceeds of sale obtained under subsection (1) or (2) as the case may be, pending an order by the court in respect of the forfeiture or otherwise of the security or proceeds.
- (4) Where no proceedings are instituted in relation to any fish or thing referred to in subsection (1) or equipment referred to in subsection (2), the Chief Executive Officer shall release the security or proceeds to the person from whom the fish or other thing was seized.

76 Security for release of a seized vessel

- (1) Where a vessel is detained or seized under this Act and a complaint is made or a charge is laid in respect of the offence for which the vessel has been detained or seized, the operator or the legal representative of the vessel may, at any time before the determination of the matter to which the complaint or charge relates, apply to the court by which the complaint or charge is due to be determined for the release of the vessel on the provision of security in accordance with this Section.
- (2) Upon receipt of an application under subsection (1), the court in the case of a foreign fishing vessel, shall, unless the vessel or any fishing equipment, fish or other property on board the vessel is required as an exhibit in court proceedings or is reasonably required for any further investigation of an offence under this Act, order:
 - (a) the payment into court of security in the total of the value of the vessel, the maximum fine or fines provided for the offences charged or likely to be charged, and the costs likely to be recovered by the prosecution if a conviction is entered; and
 - (b) upon receipt of the security referred to in paragraph (a), the release of the vessel or property.
- (3) Notwithstanding subsection (2), the court may, where it is satisfied that there are special circumstances to justify it doing so, order that the security shall be in a specified amount that is less than the amount required by that subsection.
- (4) In this Section, '**vessel**' includes all equipment on board or used by the vessel and also includes all fish that has been seized from the vessel under this Act and is held on board the vessel while it is detained in custody.

Division 2 – International Fisheries Unit

77 International Fisheries Unit

- (1) The International Fisheries Unit is established.
- (2) The Unit shall perform the following functions:
 - (a) collaborate with the Registrar of Nauruan Vessels or Registrar of Foreign Vessels in the registration and oversight of all national and foreign fishing vessels in and beyond the fisheries waters;
 - (b) coordinate the monitoring and control of all national and foreign fishing vessels in and beyond the fisheries waters through the vessel monitoring system;
 - (c) collect, analyse and verify catch data, log sheets and any information on all national and foreign fishing vessels;

- (d) prepare data and reports for submission to regional or sub-regional fisheries management organisations or arrangements to which the Republic is a member or cooperating non-contracting party;
 - (e) discharge any other obligations under a treaty or agreement to which the Republic is a party or under regional or sub-regional fisheries management organisations or arrangements to which the Republic is a member or cooperating non-Contracting Party;
 - (f) discharge such other functions as the Authority determines; and
 - (g) take responsibility for any matter concerning the compliance by any vessel to which this Section applies, with any condition, obligation or requirement imposed on it by this Section.
- (3) The International Fisheries Unit shall have all the powers necessary to perform its functions.

78 Investigation of breaches and non-compliance

- (1) The Chief Executive Officer or his or her nominee shall investigate the fishing and fishing-related activities of any vessel to which this Section applies if:
- (a) a complaint is made to the Chief Executive Officer concerning that vessel by an administrator responsible for the implementation and enforcement of any treaty;
 - (b) the Registrar of Vessels refers a matter to the Chief Executive Officer involving an allegation of breach of a condition of an authorisation to fish under this Section by a vessel registered under the *Shipping Registration Act 1968* or the *Shipping (Registration of Foreign Vessels) Act 2018*; or
 - (c) the Chief Executive Officer has any other reason to believe that a breach of any condition of an international authorisation to fish under this Section may have been committed by a vessel to which this Section applies.
- (2) The Chief Executive Officer shall notify the master, owner and charterer of any vessel under investigation that the Chief Executive Officer is conducting an investigation into the fishing and fishing-related activities of that vessel, and the master, owner and charterer shall each:
- (a) provide such information, data and documentation as is required by the Chief Executive Officer;
 - (b) answer such specific questions concerning the fishing and fishing-related activities of the vessel under investigation; and
 - (c) cooperate with any investigator authorised by the Chief Executive Officer in relation to the investigation and permit the investigator to have full access to all records and to the crew of the vessel for questioning.

- (3) A master, owner or charterer who fails to comply with subsection (2) or who otherwise obstructs an investigation under this Section commits an offence and upon conviction is liable to a fine not exceeding \$500,000 or an imprisonment term not exceeding 3 years or to both.
- (4) For the purposes of conducting an investigation under this Section, the Chief Executive Officer may authorise any person to conduct the investigation on his or her behalf, and in such a case the authorised person may exercise all the powers of the Chief Executive Officer under this Section.
- (5) The Chief Executive Officer shall provide a report of any investigation conducted under this Section to:
 - (a) the Minister;
 - (b) the Registrar of Foreign Vessels;
 - (c) the administrator responsible for the implementation and enforcement of any Treaty, Convention or arrangements whose obligations and requirements may have been breached by the vessel under investigation; and
 - (d) the master, owner and charterer of the vessel under investigation.

79 Requirements for compliance with conditions

- (1) A person who contravenes this Section commits an offence and upon conviction is liable to a fine not exceeding \$200,000 or a term of imprisonment not exceeding 2 years or both if he or she:
 - (a) breaches a condition applying to that vessel under an authorisation to fish under this Division; or
 - (b) fails to observe an applicable obligation or requirement of a treaty or arrangement to which the Republic is a party.
- (2) Where a vessel used for fishing or fishing-related activities is in breach of a condition applying to an authorisation to fish or in breach of an obligation or requirement of a treaty or arrangement to which the Republic is a party:
 - (a) the owner and charterer are jointly and severally liable to pay the costs incurred in any investigation under Section 78;
 - (b) the master, owner, charterer and any other person convicted of an offence under this Part are jointly and severally liable to pay the costs of the prosecution undertaken in respect of the breach, as determined by the court;

- (c) the Chief Executive Officer shall notify the Regional Register and any other relevant register of the breach; and
- (d) the Chief Executive Officer shall notify the Registrar of Foreign Vessels of the breach and provide such further related information as the Registrar may request.

Division 3 – Observers

80 Nauru Observer Programme

- (1) The Nauru Observer Programme is established.
- (2) The Nauru Observer Programme shall be responsible for collecting, recording and reporting reliable and accurate information for scientific, management, and compliance purposes including:
 - (a) the species, quantity, size, age and condition of fish taken;
 - (b) the methods used and areas and depths at which fish are taken;
 - (c) the effects of fishing methods on fish and the environment;
 - (d) all aspects of the operation of any vessel;
 - (e) processing, transportation, transshipment, storage or disposal of any fish;
 - (f) monitoring the implementation of management measures and applicable international conservation and management measures; or
 - (g) any other matter that may assist the Chief Executive Officer to obtain, analyse or verify information regarding fisheries for scientific, management and compliance purposes.

81 Appointment of observers

- (1) The Minister may, by notice published in the Gazette, appoint a person who has satisfied the requirements of the Authority to be an observer for the purposes of this Act.
- (2) Notwithstanding subsection (1), observers may be designated in accordance with any cooperation agreement to which the Republic is party and shall be so appointed provided that such agreement enables the reciprocal recognition of observers.
- (3) Persons appointed in accordance with subsection (2) who are not Nauru citizens shall be subject to the provisions of this Act while carrying out the duties and functions.

82 Duties to observers

- (1) The operator and each crew member of any vessel or licence holder in respect of any vessel, on which an observer is placed, shall allow and assist the observer to:
 - (a) board such vessel at such time and place as the Chief Executive Officer may require;
 - (b) have full access to and the use of facilities, gear and equipment on board the vessel which the observer may determine is necessary to carry out his or her duties, including:
 - (i) any fish on board the vessel which may be used to hold, process, weigh and store fish;
 - (ii) the bridge and the communications and navigation equipment of the vessel; and
 - (iii) the documents and records, including all logbooks of the vessel, whether required to be carried and maintained under this Act or otherwise for purposes including record inspection and copying;
 - (c) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications equipment including internet for the purpose of electronic reporting;
 - (d) take, measure, remove from the vessel and retain samples or whole specimens of any fish;
 - (e) store samples and whole specimens on the vessel, including samples and whole specimens held in the vessel's freezing facilities;
 - (f) take photographs of the fishing operations, including fish, gear, equipment, documents, charts and records and remove from the vessel such photographs or film as he or she may have taken or used on board the vessel;
 - (g) disembark at such time and place as the Chief Executive Officer may require or in accordance with an applicable access agreement;
 - (h) ensure that the safety of the observer is maintained at all times from embarkation to disembarkation;
 - (i) take photographs and records of any other illegal items which may be found on board the vessel which includes weapons which fall within the category of terrorist property and including proliferation financing under the *Counter Terrorism and Transnational Organised Crime Act 2004* and report it to the Chief Executive Officer and the Financial Intelligence Unit; and
 - (j) carry out all duties safely.

- (2) Any operator of a vessel licenced under this Act shall allow and assist an observer to have full access to any place in the Republic or elsewhere where fish is unloaded or transhipped, to remove reasonable samples for scientific purposes and to gather any other information relating to the fisheries waters or beyond such waters and the duties in subsection (1) shall apply in such circumstances *mutatis mutandis*.
- (3) Any observer who performs duties in areas beyond the fisheries waters in accordance with this Act, any international agreement, fisheries management agreement or international conservation and management measures, shall, unless the contrary is provided, continue to be subject to all provisions of this Act and all responsibilities and duties of operators, crew members or other relevant persons to such observer under this Act shall be applicable.
- (4) Where an observer is lost at sea, the operator of the fishing vessel shall cease fishing or related activities forthwith and immediately search and rescue the observer.
- (5) In the event that the observer is not found, the operator of the fishing vessel shall immediately stow all fish gear, report to the Authority and the Police and proceed to the nearest port identified by the Chief Executive Officer or nominee and comply with all directions of the Chief Executive Officer or nominee.
- (6) Where an observer dies at sea due to a medical condition or other reason, the operator of the fishing vessel shall immediately stow all fishing equipment, report to the Authority and the Police and proceed to the nearest port identified by the Chief Executive Officer or nominee and comply with all directions of the Chief Executive Officer or nominee.
- (7) Where an observer:
 - (a) requires medical assistance that cannot be adequately provided on board the vessel; or
 - (b) needs to be repatriated for a medical reason,the operator of the fishing vessel shall cease fishing or fishing-related activities forthwith, immediately stow all fish gear, proceed to the nearest port to disembark the observer and ensure that the observer has received adequate assistance and report promptly to the Authority.
- (8) Any person being:
 - (a) the owner;
 - (b) the operator;
 - (c) the master;

(d) the charterer; or

(e) a crew member;

who contravenes this Section commits a serious offence and is liable on conviction to a fine not exceeding \$2,000,000 or to a term of imprisonment not exceeding 10 years, or to both.

- (9) In addition, to a penalty under subsection (8), the Court may, where appropriate, order the suspension or cancellation of the certificate of registration of the vessel or the suspension or cancellation of the competency certificates of the master and any person on board the vessel or both.

83 Conditions for observers

- (1) The owner or operator of any vessel or licence holder in respect of any vessel, on which an observer is placed, shall at no expense to the Republic provide food, dedicated accommodation, safety equipment and medical facilities equivalent to officers or such reasonable standard as may be acceptable to the Chief Executive Officer.
- (2) The owner or operator of any vessel, on which an observer is to be placed shall, in addition to any other fees or charges required under this Act, provide to the Authority in respect of such observer and in advance of his or her placement, for the duration of his or her duties in respect of such vessel:
- (a) full insurance coverage;
 - (b) salary;
 - (c) allowances;
 - (d) all travel and associated expenses to and from the vessel; and
 - (e) other costs associated with management of the observer programme,
- at a level to be approved by the Chief Executive Officer.
- (3) Where the owner or operator of any fishing vessel does not comply with the conditions for observers identified in this Section, the fishing vessel shall not depart for fishing or fishing-related activities until such time when all conditions for observers are complied with.
- (4) Where the owner or operator of any fishing vessel does not comply with the conditions for observers at sea, the fishing vessel shall cease fishing or related activities forthwith and shall not engage in fishing or related activities until such time when all conditions for observers are complied with.

- (5) Any person who contravenes this Section commits an offence and is liable on conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years or both.

84 Notice of intention to place observers

- (1) Before placing any observer on a vessel, the Chief Executive Officer or nominee shall give the operator or licence holder, of or in respect of the vessel, reasonable notice of his or her intention to place observers on the vessel.
- (2) Upon receipt of a notice given under subsection (1), a person shall not cause or allow the vessel to which the notice relates to put to sea without having on board any observer specified in such notice.
- (3) In relation to fishing vessel fishing under a bilateral fisheries access agreement, the operator of such vessel shall be responsible for all costs associated with the placement of the observer including the costs of the accompanying placement officer.
- (4) The Chief Executive Officer may place more than one observer on board a fishing vessel if deemed necessary.
- (5) Any person who:
 - (a) permits a vessel to be put to sea without having any observer on board;
 - (b) fails to comply with the notice of the Chief Executive Officer to place observers on board; or
 - (c) otherwise fails to comply with this Section,commits an offence and is liable on conviction to a fine not exceeding \$500,000 or to a term of imprisonment not exceeding 3 years or both.

Division 4 – Offences against authorised officers and observers

85 Obstruction of authorised officers and observers

- (1) The master and each crew member of any vessel, the driver of any vehicle and the pilot and crew of any aircraft shall immediately comply with every instruction or direction given by an authorised officer and shall facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and any fishing equipment, equipment, records, documents and fish.
- (2) The master and each crew member of any vessel, the driver of any vehicle and the pilot and crew of any aircraft shall take all measures to ensure the safety of an authorised officer or observer in the performance of his or her duties.

- (3) A person who contravenes subsection (1) or (2), or who:
- (a) assaults, obstructs, resists, delays, refuses boarding or entry to, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer or observer in the performance of his or her duties;
 - (b) incites or encourages any other person to assault, resist or obstruct an authorised officer or an observer while carrying out his or her powers or duties or a person lawfully acting under the authorised officer's orders or in his or her aid;
 - (c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards an authorised officer or observer while in the execution of his or her powers of duties or a person lawfully acting under an authorised officer's orders or in his or her aid;
 - (d) fails to comply with the lawful requirements of an authorised officer or observer;
 - (e) furnishes to an authorised officer or an observer any particulars which, to his or her knowledge are false or misleading in any material respect;
 - (f) personates or falsely represents himself or herself to be an authorised officer or an observer or who falsely represents himself or herself to be a person lawfully acting under an authorised officer's orders or in his or her aid; or
 - (g) in any other way obstructs or hinders an authorised officer or observer in the exercise of his or her powers, duties or functions under this Act;

is guilty of an offence and is liable to a penalty:

- (i) not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both; or
- (ii) where the offence involves use or threat of use of a dangerous weapon or violence or threat of violence, not exceeding \$2,000,000 or an imprisonment term not exceeding 10 years or both.

- (4) In this Section, '**obstruct**' means to prevent an authorised officer or a person acting under his or her orders or in his or her aid or an observer, from exercising any of the powers conferred on that person by this Act.

Division 5 – Fishing-related activities and monitoring systems

86

Transshipment

- (1) A vessel shall not be used for transshipment at sea under any circumstances except in a port or an area in the fisheries waters authorised by the Chief

Executive Officer and to an authorised carrier vessel and with a transshipment authorisation issued under this Act.

- (2) A carrier vessel licenced to engage in transshipment shall only carry fish and fish products and must not carry any other goods including fuel and provisions.
- (3) Any person who:
 - (a) uses a vessel in the fisheries waters to undertake transshipment without a valid transshipment authorisation;
 - (b) uses a vessel in contravention of the terms and conditions of such authorisation; or
 - (c) uses a carrier vessel to carry or transport goods other than fish or fish products,

commits an offence and is liable to a fine not exceeding \$500,000 or an imprisonment term not exceeding 5 years or both.

87 Requirements for select fishing-related activities

- (1) A person shall not:
 - (a) land fish or fish products;
 - (b) bunker any fishing vessel;
 - (c) provision any fishing vessel; or
 - (d) any other prescribed activity,

in the Republic, or in the fisheries waters, or beyond such waters, except with an authorisation issued by the Authority.
- (2) Unless otherwise prescribed, the Authority shall authorise any:
 - (a) landing;
 - (b) bunkering;
 - (c) provisioning;
 - (d) any other prescribed activity,

involving any vessel in the fisheries waters or beyond such waters or in a port in the Republic in accordance with any applicable access agreement, fisheries management agreement and any requirement which may be prescribed.

- (3) The Authority shall attach such conditions as may be prescribed and may attach additional conditions as the Authority considers fit.
- (4) The master, owner, charterer or operator of the vessel authorised in accordance with this Section shall comply with all applicable written laws and any conditions of such authorisation.
- (5) The Authority may suspend or revoke such authorisation if there is failure to comply with the conditions of the authorisation or the requirements of this Act.
- (6) Any person who undertakes any landing, bunkering or provisioning activity or other prescribed activity in respect of a fishing vessel without an authorisation issued pursuant to this Section or in contravention of the terms and conditions of such authorisation, commits an offence and is liable on conviction to a fine not exceeding \$300,000 or an imprisonment term not exceeding 2 years or to both.

88 Port entry

- (1) The Authority may, in collaboration with the relevant agency, prohibit entry or allow conditional entry to a port in the Republic, for a vessel which has been identified as being engaged in or supporting fishing in contravention of any international conservation and management measure unless it can be established that the catch on board has been taken in a manner consistent with the relevant conservation and management measures.
- (2) A prohibition under subsection (1) may apply to an individual vessel or to a fleet, type or category of vessels.
- (3) The Authority may refuse entry or allow conditional entry to a port in the Republic a fishing vessel which, he or she has reasonable grounds to believe, is without nationality or has operated under the flags of 2 or more States and has used them according to convenience.
- (4) The Authority may revoke the authority to enter or remain in a port or may require a vessel, to be detained in a port under such conditions as are approved, where he or she has reasonable grounds to believe that the vessel has been fishing in contravention of international conservation and management measures or is without nationality or has operated under the flags of 2 or more States and has used them according to convenience.
- (5) References to ports in this Section include offshore terminals, designated areas in the fisheries waters and other installations for landing, transshipping, refuelling or resupplying vessels.
- (6) Regulations made or actions taken under this Section shall apply both within the Republic and the fisheries waters and in areas beyond the fisheries waters.

- (7) A person who contravenes this Section commits an offence and is liable upon conviction to a fine not exceeding \$500,000 and imprisonment for a term not exceeding 3 years or both.

89 Access to and use of designated port

- (1) The Authority in collaboration with the relevant agencies may, deny access to and use of a designated port where the Authority has reasonable grounds to suspect that a vessel seeking entry into port has engaged in illegal, unreported and unregulated fishing or fishing-related activities in support of such fishing.
- (2) The Authority may also deny entry into port where the Authority is aware that a vessel listed in a list adopted by a regional fisheries management organisation to which the Republic is a member or cooperating non-member, has engaged in illegal, unreported and unregulated fishing or fishing-related activities in support of such fishing.
- (3) Notwithstanding subsection (1), authorisation for such a vessel to enter a port may be given:
- (a) exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law, which are at least as effective as denial of port entry in preventing, deterring and eliminating illegal, unreported and unregulated fishing and fishing-related activities in support of such fishing; or
 - (b) in the event of force majeure or distress a vessel under such circumstances may enter and remain in the internal waters of the Republic for such period as is necessary for the purposes of obtaining the food, fuel and other goods and services necessary to enable the vessel to proceed safely and directly to a port outside the Republic and the fisheries waters.
- (4) The Authority in liaison with the relevant agencies may prohibit from entering a port in the Republic or designated area in the fisheries waters a vessel which has been sighted as being, engaged in or supporting fishing in contravention of the conservation and management measures of a regional or sub regional fisheries organisation and whose flag State is not a member of nor a cooperating non-member to that subregional or regional fisheries organisation, unless it can be established that the catch on board has been taken in a manner consistent with relevant conservation and management measures.
- (5) The Authority may in addition provide for any of the matters referred to in this Section by notice in the Gazette.
- (6) Any person who contravenes this Section or with any regulations or orders or notices made in accordance with its provisions commits an offence and is

liable to a fine not exceeding \$500,000 or an imprisonment term not exceeding 3 years or both.

90 Vessel Monitoring System

- (1) The operator of each fishing vessel licenced or authorised to fish pursuant to this Act shall be required, as a condition of its licence or authorisation, to install, maintain, operate and consent to the monitoring during the licence period, of a type-approved mobile transceiver unit (MTU) at all times while in the fisheries waters and beyond such waters or such other area as may be agreed or designated and in accordance with:
 - (a) the manufacturer's specifications and operating instructions; and
 - (b) such other requirements as may be prescribed.
- (2) The operator of each vessel referred to in subsection (1) shall ensure that:
 - (a) a person does not tamper or interfere with the MTU and that the MTU is not altered, damaged, disabled or otherwise interfered with;
 - (b) the MTU is not moved from the required or agreed installed position or removed without the prior written permission of the Chief Executive Officer;
 - (c) the MTU is switched on and is operational at all times when the vessel is within the fisheries waters and beyond such waters during the period of validity of the licence or authorisation;
 - (d) upon notification by the Authority that the vessel's MTU has failed to transmit, the directives of the Chief Executive Officer are complied with until such time that the vessel's MTU is functioning properly; and
 - (e) the MTU is registered as the Chief Executive Officer may direct or as may be prescribed, at the operator's expense.
- (3) The operator of each vessel referred to in subsection (1) or his or her authorised agent, upon notification by the Authority that the vessel's MTU has failed to report, shall ensure that reports containing the vessel's name, call sign, position, expressed in latitude and longitude to minutes of arc and date and time for the report, are communicated to the Authority.
- (4) Such communication in subsection (3) must be made at intervals of 4 hours or such shorter period as specified by the delegated authority, commencing from the time of notification of the failure of the MTU.
- (5) Such reports must continue until such time as the MTU is confirmed operational by the Authority provided the time between the notification of the failure and the confirmed operation of the MTU does not exceed 60 days.

- (6) Where it is not possible to make any one or more of the further position reports described in subsections (3), (4) and (5) or when the Chief Executive Officer so directs, the master of the vessel shall immediately stow the fishing equipment and take the vessel directly to a port identified by the Chief Executive Officer and as soon as possible, report to the Chief Executive Officer that the vessel is being or has been, taken to port with gear stowed.
- (7) Any operator who contravenes this Section commits an offence and is liable on conviction, to a fine not exceeding \$500,000 or an imprisonment term not exceeding 3 years or both and in addition the applicable licence and authorisation shall be cancelled.

91 Electronic reporting

- (1) The operator of each fishing vessel licenced or authorised to fish pursuant to this Act shall be required, as a condition of its licence or authorisation, to electronically report catch and such other information prescribed.
- (2) Any operator who contravenes this Section commits an offence and is liable on conviction to a fine:
 - (a) in a case involving the use of a foreign fishing vessel, not exceeding \$500,000 or an imprisonment term not exceeding 3 years or both; or
 - (b) in a case involving the use of a national fishing vessel, not exceeding \$100,000 or an imprisonment term not exceeding 2 years or both,and in addition, the applicable licence and authorisation shall be cancelled.

92 Electronic Monitory System

- (1) The operator of each fishing vessel licenced or authorised to fish pursuant to this Act shall be required, as a condition of its licence or authorisation, to install, maintain, operate and consent to the monitoring during the licence period, of an approved electronic monitoring system at all times, while in the fisheries waters and beyond such waters or such other area as may be agreed or designated and in accordance with:
 - (a) the manufacturer's specifications and operating instructions; and
 - (b) such other requirements as may be prescribed.
- (2) The operator of each vessel referred to in subsection (1) shall ensure that:
 - (a) a person does not tamper or interfere with the electronic monitoring system or device and that the electronic monitoring system or device is not altered, damaged, disabled or otherwise interfered with;

- (b) the electronic monitoring system or device is not moved from the required or agreed installed position or removed without the prior written permission of the Chief Executive Officer;
 - (c) the electronic monitoring system or device is switched on and is operational at all times when the vessel is within the fisheries waters and beyond such waters during the period of validity of the licence or authorisation;
 - (d) the electronic monitoring system or device is registered as the Authority may require or as may be prescribed, at the operator's expense;
 - (e) the electronic monitoring system including any components of such system can be audited, inspected, retrieved or otherwise, by authorised officers or persons authorised in writing by the Chief Executive Officer.
- (3) In the event that the electronic monitoring system or device is not operational or has been tampered or interfered with in any way, the operator of the vessel must not leave port, or if such event occurs at sea, the operator of the vessel must immediately stow the fishing equipment and take the vessel directly to port, and as soon as possible, report to the Chief Executive Officer that the vessel is being, or has been, taken to port with gear stowed.
- (4) Any operator who contravenes this Section commits an offence and is liable on conviction:
- (a) in a case involving the use of a foreign fishing vessel, to a fine not exceeding \$500,000 or an imprisonment term not exceeding 3 years or both; or
 - (b) in a case involving the use of a national fishing vessel, to a fine not exceeding \$100,000 or an imprisonment term not exceeding 2 years or both.

93 Electronic monitoring of fishing equipment

- (1) The operator of each fishing vessel licenced or authorised to fish pursuant to this Act shall be required, as a condition of its licence or authorisation, to install on prescribed fishing equipment an approved electronic monitoring device, and in accordance with:
- (a) the manufacturer's specifications and operating instructions; and
 - (b) such other requirements as may be prescribed.
- (2) The operator of each vessel referred to in subsection (1) shall ensure that:
- (a) a person does not tamper or interfere with the electronic monitoring device installed on prescribed fishing equipment and that such device is not altered, damaged, disabled or otherwise interfered with;

- (b) the electronic monitoring device is switched on and is operational at all times during the period of validity of the licence or authorisation;
 - (c) the electronic monitoring device is registered as the Chief Executive Officer may require or as may be prescribed, at the operator's expense; and
 - (d) the electronic monitoring device including any components of such device can be audited, inspected, retrieved or otherwise, by authorised officers or persons authorised in writing by the Chief Executive Officer.
- (3) In the event that the electronic monitoring device on the prescribed fishing equipment is not operational or has been tampered or interfered with in any way, the operator of the vessel must immediately notify such status to the Chief Executive Officer.
- (4) Any operator who contravenes this Section commits an offence and is liable on conviction to a fine:
- (a) in a case involving the use of a foreign fishing vessel, not exceeding \$500,000 or an imprisonment term not exceeding 3 years or both; or
 - (b) in a case involving the use of a national fishing vessel, not exceeding \$100,000 or an imprisonment term not exceeding 1 years or both,
- and in addition the applicable licence and authorisation may be cancelled.

PART 7 – MEASURES TO CONTROL MARINE POLLUTION

94

Definitions

In this Part:

'garbage' includes all kinds of victuals, domestic and operational wastes, excluding fresh fish and parts of a fish, generated during the normal operation of a vessel and liable to be disposed of continuously or periodically, but does not include oil, pollutants or sewage from vessels;

'oil' means oil of any description in any form and includes spirits and other distillates produced from oil of any description, coal tar, bitumen, bitumen emulsions, fuel, oil, sludge, oil refuse and oil mixed with wastes, and any reference to oil includes a reference to mixtures of oil with water or with any other substance;

'pollutant' means any substance or any substance that is part of a class of substances or any form of energy and includes any water contained by any such substance or form of energy and any reference to any pollutants includes, a reference to mixture of a pollutant with water or with any other substance or form of energy;

'sewage' in relation to vessels, includes:

- (a) drainage and other wastes from any form of toilets, urinals and scuppers;
- (b) drainage from medical premises, including dispensaries and sick bays, by way of wash basins, wash tubs and scuppers located in such premises;
- (c) drainage from spaces containing living animals; and
- (d) other waste waters when mixed with the drainages referred to in paragraphs (a), (b) and (c).

95 Discharge of oil or pollutants into fisheries waters

- (1) An operator of a fishing vessel to which this Act applies shall not discharge oil or pollutants into the fisheries waters.
- (2) A person who contravenes subsection (1), commits an offence and is liable upon conviction to:
 - (a) a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both; and
 - (b) an amount assessed by the court as costs incurred or will be incurred for removing or cleaning up any oil or pollutant discharged or having escaped into the fisheries waters.

96 Discharge of oil or pollutants into waters beyond the fisheries waters

- (1) An operator of a fishing vessel to which this Act applies shall discharge oil or pollutants into waters beyond the fisheries waters.
- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction:
 - (a) to a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 3 years or both; and
 - (b) shall pay an amount assessed by the court for costs incurred or will be incurred for removing or cleaning up any oil or pollutant that is discharged or which escaped in an area beyond the fisheries waters.

97 Discharge of garbage or sewage from fishing vessels into the fisheries waters

- (1) A person shall not discharge garbage or sewage from any fishing vessel or fixed or floating apparatus into the fisheries waters, other than in the prescribed manner.

- (2) A person who contravenes subsection (1) commits an offence and is liable upon conviction to:
 - (a) a fine not exceeding \$1,000,000 or an imprisonment term not exceeding 10 years or both; and
 - (b) an amount assessed by the Court as costs incurred or will be incurred for removing or cleaning up any garbage or sewage discharged or having escaped into the fisheries waters.

98 Equipment to prevent pollution

- (1) For the purpose of preventing or reducing the discharge of oil, pollutants, garbage or sewage into the sea, any fishing vessel registered in the Republic shall be installed with such equipment as may be prescribed.
- (2) The Minister with the approval of the Cabinet shall appoint a surveyor to test and approve the equipment to be installed in any fishing vessel.
- (3) Any surveyor appointed under the *Shipping Registration Act 1968* or the *Shipping (Registration of Foreign Vessels) Act 2018*, shall be deemed to be appointed by the Minister for the purposes of this Section.

99 Equipment to deal with pollution

- (1) For the purposes of cleaning or removing any oil, pollutant, garbage or sewage in or on the sea, any fishing vessel registered in the Republic shall carry prescribed equipment and comply with any other prescribed requirements.
- (2) The Minister with the approval of the Cabinet shall appoint a surveyor to test the equipment to be used for the purpose of this Section.
- (3) Any surveyor appointed under the *Shipping Registration Act 1968* or the *Shipping (Registration of Foreign Vessels) Act 2018* shall be deemed to be appointed by the Minister for the purpose of this Section.

100 Duty to report discharge

- (1) Where any oil, pollutant, garbage, sewage or fishing equipment is discharged or escapes into the fisheries waters from a fishing vessel, the operator of the fishing vessel shall immediately report, by radio or other means, the incident to the harbour master and the Chief Executive Officer.
- (2) The report shall provide the following:
 - (a) time or position of the discharge or escape oil, pollutant, garbage, sewage or fishing equipment;

- (b) event to which the discharge or escape of the oil, pollutant, garbage, sewage or fishing equipment occurred;
 - (c) weather or sea conditions at the time of the discharge or escape, and time when the report was made;
 - (d) where the oil, pollutant, garbage, sewage or fishing equipment has been discharged or escaped, whichever the case may be, the description, quantity of oil, pollutant, garbage, sewage or fishing equipment carried, and the concentration of each type of oil, pollutant, garbage or sewage or the fishing equipment that was discharged or escaped; and
 - (e) the existence of any slick and movement in any direction and measures taken to stop or reduce such discharge or escape, remove the oil, pollutant, garbage, sewage or fishing equipment and to minimise the damage or possibility of damage resulting from the discharge or escape.
- (3) Where any fishing vessel is stranded or abandoned whether within or beyond the fisheries waters, the owner or master shall immediately report, by radio or other means, the incident to the harbour master providing:
- (a) full details of the fishing vessel including the name, description and location of where the fishing vessel is stranded or abandoned;
 - (b) full details of the damage to the fishing vessel;
 - (c) a complete list of all oil, pollutants, garbage or sewage including the description and quantity, as the case may be; and
 - (d) estimated quantity of oil, pollutant, garbage or sewage discharged or escaped.
- (4) For the purposes of this Section, **'discharge'** includes but is not limited to the disposal of any fishing equipment into the marine environment.
- (5) A person who contravenes this Section commits an offence and is liable upon conviction to a fine not exceeding \$500,000 or an imprisonment term not exceeding 5 years or to both.

101 Records

- (1) The master of a national vessel or a foreign vessel shall carry a separate record book as part of the fishing vessel's official log book records carried on board relating to:
- (a) the loading of oil cargo;
 - (b) the transfer of oil cargo during a voyage or to or from a vessel and in between tanks in a vessel;

- (c) the discharge of oil cargo;
 - (d) any mixture containing oil;
 - (e) the ballasting and cleaning of oil tanks and discharge of ballast or cleaning water or other substance from any such tank; and
 - (f) the discharge or other disposal of mixture containing oil.
- (2) A person who contravenes this Section commits an offence and is liable upon conviction to a fine not exceeding \$100,000 or an imprisonment term not exceeding 2 years or to both.

PART 8 – JURISDICTION, PROCEDURE, PENALTIES AND LIABILITY

Division 1 – Jurisdiction and Procedure

102 Offences triable in the District Court

- (1) Notwithstanding any other written law relating to the jurisdiction and powers of the District Court, a person charged with an offence under this Act shall be tried by the District Court.
- (2) The limitation imposed by Section 7 of the *Criminal Procedure Act 1972* upon sentences that may be passed by the District Court shall not apply to the imposition by the District Court of a sentence for an offence under this Act.

103 Jurisdiction of the court

- (1) An act or omission in contravention of a provision of this Act which is committed:
 - (a) by any person within the fisheries waters;
 - (b) beyond the fisheries waters by any Nauruan citizen or any person ordinarily resident in the Republic; or
 - (c) by any person on board a national fishing vessel,

shall be dealt with and judicial proceedings taken as if the act or omission had taken place in the Republic.
- (2) Where this Act entitles an authorised officer or an observer to exercise a power or perform a function beyond the fisheries waters, any act or omission of any person outside fisheries waters in relation to the authorised officer or observer, which if committed within the fisheries waters would be an offence against this Act, shall be deemed to have been committed within the fisheries waters.
- (3) Where a written law or a condition of a licence specifically or incidentally requires:

- (a) the reporting of a fact while a vessel is on the high seas;
- (b) electronic transmission of information while a vessel is on the high seas or elsewhere beyond the fisheries waters; or
- (c) compliance with requirements relating to fishing and fishing-related activities beyond the fisheries waters,

proceedings may be taken in respect of a failure to report or transmit information or comply with requirements as if such failure had occurred within the fisheries waters.

Division 2 – Penalties and Liability

104 Vessels and other things detained or seized

- (1) Where a vessel or other thing has been detained or seized under Section 68 and a person who has been properly charged with an offence in relation to it fails to appear to answer the charge within 90 days of the detention or seizure, the Chief Executive Officer may apply to the court for the vessel or thing to be forfeited and the court shall make such order as it considers just.
- (2) Where the court fails or refuses to make an order for forfeiture under subsection (1), the Chief Executive Officer may appeal to the Supreme Court, the decision of which shall be final.
- (3) Subject to subsection (4) and Section 68, where a vessel or other thing is detained or seized under Section 68 and no person is arrested, the vessel or thing shall be returned to the owner or the person having possession, care or control of it at the time of detention or seizure.
- (4) Where the owner of a vessel or other thing detained or seized under Section 68 cannot be traced within 30 days, it shall be forfeited and be disposed of as the Chief Executive Officer in his or her discretion considers fit.
- (5) Where a vessel or other thing has been detained or seized under Section 68 and the court does not order its forfeiture, it or any proceeds realised from its disposal, shall be returned to the owner or the person having the possession, care or control of it at the time of the detention or seizure.
- (6) Where the owner of a vessel or other thing or the person having the possession, care or control of it at the time of its detention or seizure is convicted of an offence under this Act and a fine is imposed:
 - (a) the vessel or thing may be detained until all fines, orders for costs and penalties imposed under this Act have been paid;
 - (b) where payment under paragraph (a) has not been made within the time allowed, the vessel or thing may be sold in satisfaction of the fine and the

balance of the proceeds returned after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale; or

- (c) any proceeds realised from the disposal of seized fish and other things under Section 75 may be applied in payment of the fine, order for costs and costs of sale.

105 Cancellation of licence

- (1) When a person is convicted of an offence under this Act, the court may, in addition to any other penalty, order:
 - (a) the cancellation of any licence issued to that person;
 - (b) the forfeiture of any fees paid for the licence; and
 - (c) that the person be disqualified from the day of conviction from holding a licence for a period not exceeding 3 years.
- (2) When a person is convicted of an offence under this Act in the commission of which a licenced vessel was used or otherwise involved, the court may, in addition to any other penalty, order the cancellation of the licence in respect of the vessel and the forfeiture of any fees paid in respect of the licence.
- (3) Where a person who has been duly served a summons to answer a charge of a contravention of or failure to comply with, a term or condition of a licence fails to appear in answer to the summons, the court shall, unless it considers that there are exceptional reasons for not doing so, order the cancellation of the licence and the forfeiture of any fees paid in respect of the licence.

106 Penalties and costs

- (1) Notwithstanding the penalties provided under this Act, where by the terms of an agreement with any other State the imposition of a penalty of imprisonment on nationals of that State is permitted, the penalties shall be deemed to include an alternative of a term of imprisonment for a period not exceeding the years which may be imposed upon a national of such State.
- (2) The owner or charterer shall bear any cost or expenditure incurred by the State, as determined by the court in accordance with this Act upon conviction and by application of the State, in connection with:
 - (a) the seizure of a foreign fishing vessel for an offence against this Act; and
 - (b) the prosecution for an offence in accordance with this Act.
- (3) Each day of a continuing offence may be considered as a separate offence.

107 Costs incurred by the Authority

- (1) Upon application by the Authority, the court may, on conviction for an offence under this Act, order a person, the owner and as applicable the charterer of a vessel, body corporate or other entity involved in the offence, jointly and severally, to bear the cost or expenditure incurred by the Authority, in connection with:
 - (a) the seizure of an item or a vessel for an offence against this Act;
 - (b) the prosecution for an offence in accordance with this Act, including but not limited to delays caused by a person who denies a charge but later admits to the same charge;
 - (c) the costs for the maintenance of the vessel, master and crew while the vessel is under detention;
 - (d) the repatriation of the master or crew of any vessel seized under this Act; and
 - (e) any other matter specified by notice published in the Gazette.
- (2) The amount of any costs or expenditure ordered by the court under subsection (1) may be recovered in the same manner as a fine.
- (3) Nothing in subsection (1) shall be deemed to allow for the recovery of any cost or expenditure that has already been recovered pursuant to any other order made under this Act.
- (4) Where a person contravenes an order of the court made under this Section, the court may, as appropriate, impose a custodial sentence.

108 Prohibition order against a repeat offender

- (1) Where any person who is convicted of an offence against this Act or any statutory instrument made under this Act and within 7 years from the date of that conviction is convicted on any other occasion of the same or any other offence against this Act or any statutory instrument made under this Act, the court may, in addition to any other fine or penalty provided under this Act, make an order prohibiting that person from engaging in:
 - (a) fishing;
 - (b) fishing-related activities; and
 - (c) any other activity as may be provided for under this Act.
- (2) Any person who contravenes an order made under subsection (1) or the master of a fishing vessel who has aboard a person who is banned under subsection (1) commits an offence and is liable to the payment of the fine not exceeding \$200,000 or 2 years imprisonment or both.

109 Liability of master and others

Where the owner or charterer of a foreign fishing vessel who is charged with an offence against this Act is neither resident nor physically present in Nauru at the time when the vessel was first arrested or at any time after the arrest:

- (a) the master of the vessel; or
- (b) any employee, agent or representative of the owner or charterer who may be resident or physically present in the Republic at any time after the arrest,

shall be deemed to be the owner or charterer, as the case may be and may be charged, prosecuted, convicted and sentenced as appropriate.

110 Liability for non-payment of penalties

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

111 Liability for loss or damage

A person who commits an offence against this Act may, upon conviction, be liable for any loss or damage caused by the offence and the amount of such loss or damage may be awarded by the court as restitution in addition to and recovered in the same manner as a fine.

112 Imprisonment of non-nationals

Where an offence under this Act has been committed in the exclusive economic zone by a person who is a national of any other State, that person may not be sentenced to a term of imprisonment in the absence of any agreement to the contrary between the Republic and the State of which that person is a national.

PART 9 – EVIDENCE AND PRESUMPTIONS

113 Photographic evidence

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

(2) The presumption set out in subsection (1) shall apply only if:

- (a) the camera taking the photograph is connected directly to the instruments which provided the date, time and position concerned; and
 - (b) the photograph was taken by an authorised officer or an observer.
- (3) An authorised officer or observer who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating:
- (a) his or her name, address, official position, country of appointment and authority under which he or she is appointed;
 - (b) the name and call sign, if known, of any fishing vessel appearing in the photograph;
 - (c) the names of the camera, watch or clock or other instruments supplying the date and time and the position fixing instrument and a declaration that he or she checked those instruments a reasonable time before and after the taking of the photograph and that all the instruments appeared to be working correctly;
 - (d) the matters set out in subsection (2)(a);
 - (e) the accuracy of the fixing instrument used within specified limits; and
 - (f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

114 Vessel monitoring system and electronic monitoring evidence

- (1) All information or data obtained or ascertained by the use of a mobile transceiver unit or other prescribed electronic monitoring system or device shall be presumed, unless the contrary is proved, to:
 - (a) come from the vessel so identified;
 - (b) be accurately relayed or transferred; and
 - (c) be given by the master, owner and charterer of the vessel.
- (2) Evidence may be given of information and data so obtained or ascertained under subsection (1) whether from a printout or visual display unit.
- (3) The presumption in subsection (1) shall apply whether or not the information was stored before or after any transmission or transfer.
- (4) A mobile transceiver unit or other prescribed electronic monitoring device installed and operated in accordance with this Act shall be judicially recognised as accurate.

- (5) An authorised officer or other person authorised in writing by the Chief Executive Officer may give a certificate stating:
- (a) his or her name, address and official position;
 - (b) that he or she is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from a mobile transceiver unit or other prescribed electronic monitoring device;
 - (c) the date and time the information was obtained or ascertained from the mobile transceiver unit or other prescribed electronic monitoring device and the details thereof;
 - (d) the name and call sign of the vessel on which the mobile transceiver unit or other prescribed electronic monitoring device is or was located as known to him or her or as ascertained from any official register, record or other document; and
 - (e) a declaration that there appeared to be no malfunction in the mobile transceiver unit or other prescribed electronic monitoring device, its transmissions or other machines used in obtaining or ascertaining the information.

115 Evidence by certificate

- (1) In any proceedings for an offence under this Act:
- (a) the Authority, Chief Executive Officer or an authorised person under this Act; and
 - (b) an authorised officer or an observer;
- may give a certificate as to such matters, in such form and containing such particulars, as are prescribed.
- (2) A certificate given under this Section shall:
- (a) be signed by the person who made it; and
 - (b) contain a declaration by the person who made it that the matters stated in the certificate are true to the best of his or her knowledge and belief and that he or she made the certificate knowing that, if it were tendered in evidence, he or she would be liable to prosecution if he or she wilfully stated in it anything which he or she knew to be false or did not believe to be true.
- (3) Unless the contrary is proved, a document purporting to be a certificate given under this Section shall be deemed to be such a certificate and to have been duly made.

- (4) Where a certificate made under this Section is served upon an accused person at least 14 days before its production in court and the accused person does not, within 7 days of the date of service, serve notice of objection in writing upon the prosecutor, then the certificate shall, unless the court finds the accused is unduly prejudiced by any failure to object, be conclusive proof of all the facts averred in it.
- (5) Where an objection is notified under subsection (4), the certificate shall, unless the contrary is proved, be sufficient evidence of the facts stated in it.
- (6) Any omission from or mistake made in any certificate given under this Section does not render it inadmissible in evidence unless the court considers that the omission or mistake is material to any issue in the proceedings concerned or that the accused is unduly prejudiced by it.
- (7) Notwithstanding that other matters may be contained in it, a certificate given under this Section is validly made in relation to the matters which by this Act are permitted to be stated in it.
- (8) Where in any proceedings a certificate made under this Section is produced to the court, the prosecution shall not be obliged to call the maker of the certificate and the court shall, where material, rely on the facts contained in the certificate unless the contrary is proved.
- (9) The provisions of this Section apply to a certificate given under this Section notwithstanding anything to the contrary in the *Criminal Procedure Act 1972*.

116 General presumptions

- (1) For the purposes of any proceedings under this Act, the act or omission of a crew member of a vessel while aboard the vessel or engaged in any fishing-related activity to or in association with that vessel shall be deemed to be also that of the operator of the vessel.
- (2) For the purposes of the prosecution of a person for an offence under this Act, where a person is charged for an act or omission done by an employee or other agent, the act or omission shall be deemed to have also been done by the person charged for the offence.
- (3) Any entry in writing or other mark in or on any log, chart or other document required to be maintained under this Act or used to record the activities of a vessel shall be deemed to be that of the operator of the vessel.
- (4) Where any information is given in respect of a vessel under this Act or an applicable access agreement in relation to any fishing by a foreign fishing vessel, it shall be presumed, unless the contrary is proved, to have been given by the operator of the vessel, whether it is given by post, telephone, facsimile, radio transmission, email or other method of communication.

- (5) Where any vessel monitoring system information or other electronic information is received by the Authority in respect of a vessel under this Act, it shall be presumed, unless the contrary is proved, to have been transmitted by the operator of the vessel.
- (6) All fish found on board any fishing vessel or in or on any vehicle or aircraft used or involved in the commission of an offence under this Act shall be presumed, unless the contrary is proved, to have been caught unlawfully and is liable to forfeiture.

117 Presumptions related to observers

- (1) Where an observer suffers injury while on board a fishing vessel, it shall be presumed, unless the contrary is proved, that such injury has been caused by the owner and operator of the vessel or his or her agent.
- (2) Where an observer is lost at sea, it shall be presumed, unless the contrary is proved, that the owner and operator of the vessel are responsible.
- (3) Where an observer dies at sea, it shall be presumed, unless the contrary is proved, that the owner and the operator of the vessel are responsible.

PART 10 – ADMINISTRATIVE PROCEEDINGS

118 Decision to proceed administratively

- (1) The Authority may, with the written consent of the Director of Public Prosecutions, proceed administratively against any person who is charged for the commission of an offence under this Act, if that person consents in writing to the Authority proceeding administratively.
- (2) The Authority shall promptly notify the person charged in writing that he or she may, within 7 working days of receiving such notification, either consent to or refuse summary administrative proceedings.
- (3) Where the person charged consents to summary administrative proceedings, the person shall notify the Authority in writing that he or she:
 - (a) admits to having committed the offence that he or she is charged with committing; and
 - (b) consents to the charge being dealt with by summary administrative proceedings.
- (4) Upon notifying the Authority of his or her consent to summary administrative proceedings under subsection (3), the person charged shall:
 - (a) be deemed to have consented to any seizure which took place in accordance with this Act in relation to the offence that is subject to the

summary administrative proceedings and to have waived any right to a probable cause hearing; and

- (b) not engage in fishing or any fishing-related activity in the fisheries waters until an administrative penalty assessed under this Part has been paid in full.
- (5) Upon receiving the notification under subsection (3), the Authority shall notify the Director of Public Prosecutions that the matter is being dealt with in accordance with this Part.
- (6) On receipt of a notification under subsection (5), the Director of Public Prosecutions may refrain from prosecuting the person charged with an offence under this Act while the matter is being dealt with under this Part, unless in his or her opinion there is a public interest in proceeding with the prosecution.
- (7) Where the person fails to consent to the summary administrative proceedings or to respond to the Authority's written notice within 7 working days, the Authority shall refer the matter to the Director of Public Prosecutions.

119 Summary administrative proceedings

- (1) The Authority may, upon receiving the notification under Section 118(3), cause a compounding agreement to be drawn up in consultation with the Secretary for Justice to formalise the terms and conditions upon which the Authority will accept on behalf of the Republic from the person charged an administrative penalty, the amount of which:
 - (a) shall be determined in accordance with any report that may be prepared by the Authority in consultation with the Secretary for Justice regarding the details of the offence and applicable fine or penalty levels;
 - (b) shall not exceed the maximum fine or penalty prescribed under this Act, plus the fair market value of any fish caught illegally;
 - (c) also includes such amount that may be necessary to deprive the person of monetary benefits acquired or saved by the person as a result of the commission of the offence based on an assessment by an expert that would otherwise be acceptable in a court of law; and
 - (d) may include the costs incurred by the Authority described in Section 107, which provision shall apply with the necessary modifications.
- (2) Summary administrative proceedings shall be null and void, if the full amount of the penalty determined under subsection (1) is not paid within 14 days of the notification of such penalty assessment to the person subject to the proceedings, and the Authority shall refer the matter to the Director of Public Prosecutions.

- (3) On payment of the penalty in full under this Section, the Authority may order the release of any item seized under this Act or of the proceeds of sale of the item on such conditions as he or she may determine.
- (4) The compounding agreement under subsection (1) may provide that any item used or involved in the commission of the offence be confiscated or forfeited.

120 Evidence of participation in summary administrative proceedings not to be used in prosecution

The fact that a person charged with an offence consented to summary administrative proceedings under this Part and any admission made under Section 118(3) shall not be used against the person in the prosecution of the offence under this Act pursuant to:

- (a) a decision of the Director of Public Prosecutions under Section 118(6); or
- (b) the referral of a matter to the Director of Public Prosecutions for prosecution under Section 118(7).

121 Fisheries Fixed Penalty Notice

(1) A Fisheries Fixed Penalty Notice shall comply with the following requirements:

- (a) state the place, date and time of alleged offence;
- (b) state the name and address of the person to whom the notice is issued;
- (c) notify the person to whom the notice is issued when and where the fixed penalty may be paid;
- (d) require the person to whom the notice is issued to pay the amount due within 21 days and in the event of failure to pay the fixed penalty, legal proceedings shall be instituted within the next 14 days and the person may have legal representation to represent them or enter a written guilty plea;
- (e) notify the person to whom the notice is issued that, in case of default in payment within the time specified in the notice, the court may, if the person is found guilty by the court, impose a penalty which is more than the fixed penalty for the offence; and
- (f) shall bear the date on which it was served on the person charged as the case requires.

(2) The Cabinet may make regulations prescribing:

- (a) offences for which fixed penalties shall be imposed;
- (b) a fixed penalty for each corresponding prescribed fixed penalty offence;

- (c) the Fisheries Fixed Penalty Notice which an authorised officer may serve to an offender for an offence for which a fixed penalty is prescribed;
 - (d) a time frame for the payment of a fixed penalty;
 - (e) procedure for the prosecution of and additional penalty to be imposed by the court on offenders defaulting to pay the prescribed penalty in accordance with the Fisheries Fixed Penalty Notice;
 - (f) procedures for dealing with a Fisheries Fixed Penalty Notice; and
 - (g) any other matters necessary for the effective enforcement of Fisheries Fixed Penalty Notices.
- (3) An authorised officer may issue a Fisheries Fixed Penalty Notice to a person who commits an offence under this Act.
 - (4) The fixed penalty for any offence shall not exceed 50% of the maximum penalty provided under this Act.

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Requirements for a Fisheries Fixed Penalty Notice

- (1) A Fisheries Fixed Penalty Notice shall not be served more than 14 days after the day on which the offence is alleged to have been committed.
- (2) The authorised officer who issues a Fisheries Fixed Penalty Notice shall cause a signed copy of the notice to be placed before the Nauru Revenue Office and District Court as specified in the notice not later than 7 days after the notice is issued.
- (3) Where a Fisheries Fixed Penalty Notice served upon a person has not been accepted by payment of the fixed penalty within 21 days of the date of the Fixed Penalty Notice, the notice shall be regarded for all purposes as a summons issued under the *Criminal Procedure Act 1972*.
- (4) A person who is issued a Fisheries Fixed Penalty Notice by an authorised officer shall accept its service by signing for the service of the Fisheries Fixed Penalty Notice.
- (5) A person who fails to comply with subsection (4), commits an offence and is liable upon conviction to a fine not exceeding \$5,000.
- (6) The issuance of a Fisheries Fixed Penalty Notice shall not be taken to prevent the institution of proceedings under any other provision of this Act.
- (7) Where a Fisheries Fixed Penalty Notice served upon a person is not complied with and is placed before the court, the court may impose a penalty higher than the fixed penalty stipulated for the offence and such penalty shall:
 - (a) be commensurate with the seriousness of the offence; and

- (b) deprive the offender of any benefits arising from the commission of the offence.

123 Evidence of acceptance of a Fisheries Fixed Penalty Notice

In any proceedings, a certificate signed by the Registrar of Courts, Nauru Revenue Office or an authorised officer that the fixed penalty is or is not paid shall, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

PART 11 – MISCELLANEOUS

124 Duty of confidentiality

- (1) A person exercising powers or performing functions in the Authority or under this Act, including the Minister and members of the Board shall not, unless authorised in accordance with this Act, disclose any information, document or other data of a confidential nature, that is obtained by virtue of the person's powers or functions, to any person who does not have such powers or functions.
- (2) The Authority may designate any information, document or other data as confidential and in doing so may exempt general summaries of aggregated information from confidentiality requirements.
- (3) The Authority may authorise in writing any person to:
 - (a) receive or access any confidential information, document or other data;
or
 - (b) access or restrict access to such premises holding the confidential information, document or other data as he or she may designate.
- (4) Notwithstanding subsection (2), the following shall be confidential:
 - (a) any information, document or other data of a commercial nature provided in records, returns or other documents required under this Act;
 - (b) any information, document or other data supplied by a vessel monitoring system in accordance with this Act;
 - (c) any information, document or other data from an electronic system;
 - (d) such other information, document or other data as may be prescribed.
- (5) Any information, document or other data may be disclosed to the extent:
 - (a) that the disclosure is authorised or required under this Act or any other written law;

- (b) that the person providing the information authorised its disclosure;
 - (c) necessary to enable the Chief Executive Officer to publish statistical information relating to the fisheries sector; or
 - (d) necessary to enable advice to be given to the Minister or the Authority.
- (6) The Authority may authorise the release of any information, document or other data supplied by a vessel monitoring system or other electronic monitoring system relating to the position of any vessel or activities on the vessel, upon request, to the responsible authority for purposes including surveillance, search and rescue, investigations and other emergency and may authorise the release of such other confidential information, document or other data for such purposes as may be prescribed.
- (7) A person who contravenes this Section commits an offence and is liable on conviction to a fine of \$200,000 or a term of imprisonment of 2 years or to both and in addition to any such penalty, his or her appointment or other authority under this Act may be reviewed and terminated by the appropriate authority.

125 Ownership of data and information

- (1) Unless otherwise prescribed under this Act, any data, information or statistics required under this Act, including vessel monitoring system data, information or statistics derived from an electronic system is confidential and ownership of the data, information or statistics vests in the Republic.
- (2) Unless otherwise prescribed under this Act, any data, information or statistics generated or derived from monitoring, control, surveillance and enforcement activities or operations including vessel monitoring system or other electronic monitoring system, within or over the fisheries waters or initiated by the Republic beyond such waters, is confidential and vests in the Republic.
- (3) Notwithstanding any other written law governing intellectual property, all intellectual property derived from activities in the fisheries waters including the analysis of fish derived from the fisheries waters or technologies created or enhanced with the use of information owned by the Republic shall be deemed to be co-owned with the Republic.
- (4) Any research undertaken by the Authority or upon the request of the Authority shall be wholly-owned by the Authority.
- (5) A person shall not disclose confidential data, information or statistics unless authorised to do so under this Act.
- (6) Notwithstanding any other written law governing intellectual property, a person shall not claim, transfer or alienate the ownership of intellectual property vested in the Republic to any other person unless authorised to do so under this Act.

- (7) Notwithstanding any other written law governing intellectual property, a person shall not use any confidential data, information or statistics or any intellectual property vested in the Republic unless authorised to do so under this Act.
- (8) Fish caught in the fisheries waters, regardless of the nationality of the catching vessel and fish caught on the high seas by national fishing vessels or vessels chartered by nationals of the Republic shall be attributed to the Republic for the purposes of historical catch.
- (9) A person who:
- (a) discloses confidential data, information or statistics contrary to subsection (5);
 - (b) claims, transfers ownership or alienates the ownership of intellectual property vested in the Republic without authorisation contrary to subsection (6);
 - (c) uses any confidential data or any intellectual property vested in the Republic without authorisation contrary to subsection (7); or
 - (d) falsely attributes catch contrary to subsection (8);

commits an offence under this Act and is liable on conviction to a fine not exceeding \$200,000 or a term of imprisonment not exceeding 2 years or to both.

126 Authority to provide information to the Financial Intelligence Unit

Where the Authority in the performance of its functions and exercise of its powers receives information relevant to the monitoring, prevention and investigation of an offence under the *Counter Terrorism and Transnational Organised Crime Act 2004*, *Anti-Money Laundering and Targeted Financial Sanctions Act 2023* or *Proceeds of Crime Act 2004*, the Authority shall enter into arrangement, cooperate and provide such information to the Financial Intelligence Unit.

127 Activities contrary to the laws of any other State or to an international conservation and management measure

- (1) Any person who, within the Republic or in the fisheries waters:
- (a) on his or her own account, or as the partner, agent or employee of any other person, lands, imports, exports, transports, sells, receives, acquires or purchases; or
 - (b) causes or permits a person acting on his or her behalf, or any fish taken, possessed, transported or sold,

contrary to the law of any other State or an international conservation and management measure commits an offence.

- (2) A person who commits an offence under subsection (1) is liable on conviction to a penalty:
 - (a) in a case involving the use of a foreign fishing vessel, a fine not exceeding \$1,000,000 or imprisonment for a term not exceeding 10 years or both;
 - (b) in a case involving the use of a national fishing vessel, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 2 years or to both; or
 - (c) in the case of a crew member of a foreign or a national fishing vessel, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 2 years or to both.
- (3) This Section does not apply to fish taken on the high seas contrary to the law of any other State where the Republic does not recognise the jurisdiction of that State over those fish.
- (4) Where there is in existence an agreement with any other State to this effect, the penalty provided under subsection (2) or any portion of it according to the terms of the agreement, shall, after all costs and expenses incurred by the Government and the Authority have been deducted, be remitted to that State according to the terms of the agreement.

128 General offences

- (1) A person who contravenes or fails to comply with this Act or any notice, direction, restriction, requirement or condition given, made or imposed under this Act, other than a requirement to pay a sum of money, commits an offence under this Section.
- (2) A person who commits an offence under any Section of this Act for which no other penalty is provided is liable on conviction to a penalty:
 - (a) in a case involving the use of a foreign fishing vessel, a fine not exceeding \$500,000 or imprisonment for a term not exceeding 3 years or both;
 - (b) in a case involving the use of a national fishing vessel, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 2 years or to both; or
 - (c) in the case of a crew member of a foreign or a national fishing vessel, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years or to both,and, if the offence is a continuing one, to a further fine not exceeding \$5,000 for every day after the first day on which the offence has continued.

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

A claim shall not lie against the Republic or the Authority:

- (a) for any failure to comply with any provision of this Act;
- (b) for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other thing while it is held in custody under this Act; or
- (c) in respect of any disposal, release or destruction of any vessel, vehicle, aircraft or other thing undertaken in accordance with this Act.

130 Delegation of powers of the Authority

The Authority may in writing delegate its powers to the Chief Executive Officer for the purposes of carrying out the functions of the Authority under this Act.

131 Protection from liability

An authorised officer, an observer or a person lawfully acting under an authorised officer's orders or in his or her aid shall not be subject to any civil or criminal liability in respect of any act or omission done in pursuance or intended pursuance of any power or function conferred on him or her by or under this Act, whether on the ground of want of jurisdiction, mistake of law or fact or on any other ground, unless the act or omission was done in bad faith without reasonable cause.

132 Regulations

- (1) The Cabinet may make regulations prescribing matters which by this Act are required or permitted to be prescribed or which it considers are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and in particular prescribing matters providing for and in relation to:
 - (a) the means of determining the total allowable catch or effort either generally or in respect of an individual fishery, the maximum sustainable yield of fish, precautionary reference points, fishing quotas, fishery areas, licence priorities and quotas and related matters and determining those matters;
 - (b) the grant, conditions, suspension and cancellation of licences, permits and other authorisations to engage in or use a vessel for fishing or a fisheries activity;
 - (c) the restrictions or prohibitions relating to endangered and protected species;
 - (d) the registration and marking of vessels used for fishing and fishing-related activities;
 - (e) requirements for the materials that may be used and construction of specific fishing equipment;

- (f) the registration, marking, identification and monitoring of fishing equipment including fish aggregating devices and associated electronic equipment;
 - (g) regulating the conduct of fishing and fisheries activities;
 - (h) regulating, controlling and managing research, surveys, study and education regarding fish, fisheries and marine resources and the marine environment;
 - (i) the working conditions on board fishing vessels, vessels used in fishing-related activities or facilities used in the processing of fish and fish products;
 - (j) the identification of officers authorised to perform duties under this Act;
 - (k) the monitoring and surveillance of fishing and fishing-related activities and the gathering, storing and use of information regarding vessels, fishing and fisheries activities, including its use as evidence in proceedings under this Act;
 - (l) the seizure, custody, dealing with and disposal of any vessel, fish or other thing under this Act;
 - (m) service in actions, the giving of evidence in proceedings, presumptions which may arise in or in relation to proceedings and any other procedural matters, in any proceedings under this Act;
 - (n) the sale or disposal of unclaimed fishing equipment found in any waters;
 - (o) the furnishing of returns containing information in relation to fishing, fisheries activities;
 - (p) any fees, charges, taxes, royalties, bonds or securities payable in respect of any matter under this Act; and
 - (q) prescribing penalties of fines not exceeding \$250,000 for offences against the regulations or offences against any provision of this Act for which no penalty is provided.
- (2) The Cabinet, may provide for the establishment of a regime of statutory fishing rights and in doing so may make regulations on the following matters:
- (a) the method of applying for a right of access or quota share;
 - (b) the identification of criteria for determining those eligible to apply for a statutory fishing right;
 - (c) the nature of a statutory fishing right;
 - (d) the duration of a statutory fishing right;

- (e) the criteria for adjusting the fishing rights allocated from one period to any other due to fluctuations in the availability of the stocks to which the rights relate;
 - (f) determining whether the statutory fishing right shall be inheritable, leasable, saleable, or divisible;
 - (g) the number of rights or quota any person may hold at any one time;
 - (h) the method of calculation of any quota which may be expressed as part of the Total Allowable Catch or Effort or the Total Allowable Catch or Effort for a particular species; and
 - (i) the circumstances in which a statutory fishing right may lapse, be reduced, suspended, reallocated or cancelled.
- (3) For the purpose of promoting the effectiveness of conservation and management measures adopted by sub regional, regional or global fisheries management organisations, treaties or arrangements, the Cabinet, may make regulations concerning the following matters:
- (a) the designation and publication of ports and offshore terminals to which foreign fishing vessels may be permitted access;
 - (b) the training, qualification and designation of port and offshore terminal inspectors;
 - (c) conditions for access to and use of ports and offshore terminals by foreign fishing vessels including the fees payable, reporting and monitoring requirements;
 - (d) establishing procedures, the contents of and results to be obtained from an inspection regime, including the adoption of port measures adopted by a subregional, regional or global fisheries organisation, treaty or arrangement;
 - (e) prescribing the additional powers of authorised officers, mode of conducting an inspection, including the power to inspect any area of the fishing vessel, catch, whether processed or not, any fishing equipment, equipment or other gear and document which the inspector considers necessary to verify compliance with relevant international conservation and management measures;
 - (f) requiring the provision of such assistance or information as may be needed in order to undertake inspections;
 - (g) requiring, prior to allowing port access to a fishing vessel, that such vessel provides such notice as may be prescribed prior to entering a port or the fisheries waters for the purpose of port access, including identification, any authorisation to fish, information on its fishing trip and vessel

monitoring systems, quantities of fish on board and such other documentation or information as may be prescribed;

- (h) regulating or prohibiting the landing, packaging or processing of fish, including the prohibition of port access of a vessel which has been identified or reported as having been engaged in or supporting fishing or fishing-related activities in contravention with subregional, regional or global conservation measures or where there are reasonable grounds for presuming that a vessel has been engaged in such activity;
- (i) regulating or prohibiting port access of a vessel that has been included on the list of vessels that are believed to have engaged in illegal, unregulated or unreported fishing maintained by sub-regional, regional or global fisheries organisations to which the Republic is a Party or cooperating non-party;
- (j) regulating or prohibiting the landing, packaging or processing of fish or fish product, including the prohibition of port access of a vessel which has been identified or reported as having been engaged in or supporting fishing or fishing-related activities in areas under national jurisdiction in contravention of the laws of a State or fishing on the high seas without an authorisation to do so from its flag State or where there are reasonable grounds for presuming that a vessel has been engaged in such activity;
- (k) authorising the cooperation and exchange of information, including inspection results with other States and subregional, regional or global fisheries organisations;
- (l) providing for a system of appeal against decisions taken in respect of fishing vessels under this Section;
- (m) providing for the requirements for electronic reporting of information and the electronic monitoring of vessels engaged in fishing and fishing-related activities;
- (n) regulating the conditions on board national fishing vessels engaged in fishing and fishing-related activities and foreign fishing vessels licenced to engage in fishing and fishing-related activities in the fisheries waters;
- (o) promoting safe and decent working conditions on board national fishing vessels engaged in fishing and fishing-related activities and foreign fishing vessels licenced to engage in fishing and fishing-related activities in the fisheries waters;
- (p) regulating the requirements for the documentation of catch; or
- (q) providing for any other measures that may be agreed to by subregional, regional or global fisheries organisations, treaty or arrangement to which the Republic is a Party or cooperating non-party.

- (4) Regulations made under this Act may empower such authorities or persons as are specified in the Regulations to make orders or notices or to give instructions, authorisations and permissions for any of the purposes for which the Regulations are authorised by this Act to be made and may contain such incidental and supplementary provisions as are necessary or expedient.

PART 12 – REPEAL, SAVINGS AND TRANSITIONAL

133 Repeal

The *Fisheries Act 1997* is repealed.

134 Saving of existing licences and agreements

- (1) Any licence granted under the repealed *Fisheries Act 1997* and which is in force immediately before the commencement of this Act shall continue to have full force and effect for remainder of the term for which the licence was granted or until such time the licence expires or is revoked according to written law.
- (2) Any access agreement made under or in relation to the repealed *Fisheries Act 1997* and which is substantially at variance with the provisions of this Act shall continue in full force and effect until the earliest possible date of its renegotiation or renewal according to its terms, at which time it shall be renegotiated so as to ensure compliance with the provisions of this Act.
- (3) A vessel registered under the *Shipping Act Registration Act 1968 and the Shipping (Registration of Foreign Vessels) Act 2018* shall not be affected by this Act except as the Authority may direct for the vessel to be required to comply with the requirements of this Act, which shall have a moratorium for 6 months.

135 Application of other written laws

Where:

- (a) any written law; or
- (b) any document or instrument wherever made or executed;

contains a reference, whether express or implied, to the repealed *Fisheries Act 1997* or to a provision of that Act, the reference shall, on the commencement of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to this Act or the corresponding provision of it.

136 Actions, arbitration or proceeding not to abate

Where, immediately before the commencement of this Act, any action, arbitration or proceeding was pending or existing by or against a person or body under the repealed *Fisheries Act 1997*, it does not, on the commencement of this Act, abate or discontinue, or be in any way affected by any provision of this Act but it may be prosecuted, continued and enforced by, against or in favour of the person or body as if this Act had not been made.

137 Transitional provision

Any act, appointment, decision, regulation, order, declaration, action, status or capacity that existed under the repealed *Fisheries Act 1997* continues in force so as to carry out, complete such act or decision, order, declaration, action or unless such status or capacity is revoked under the provisions of this Act.

138 Consequential amendment

A reference to '*Fisheries Act 1997*' in any written law shall be deleted and substituted with '*Fisheries Management Act 2024*'.