

DECREE

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THE FISHERIES (MANAGEMENT AND DEVELOPMENT)
DECREE, 1994

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N.P.R.C. Decree
No. 19



Sierra Leone

1994

**The Fisheries (Management and Development)
Decree, 1994**

Short title .

**Being a Decree to make better provisions for the Management,
Planning and Development of the Fisheries and the Fishing Industries
of Sierra Leone; and for related matters.**

Date of
Commence-
ment.

PURSUANT to paragraph 3 of the Proclamation entitled "The Administration of Sierra Leone (National Provisional Ruling Council) Proclamation, 1992", the National Provisional Ruling Council hereby makes and issues the following Decree—

PART I — PRELIMINARY

1. This Decree shall come into force on a date to be appointed by the Secretary of State by notice published in the *Gazette*.

Commence-
ment.

Interpretation.

2. In this Decree, unless the context otherwise requires—

“access arrangement” means a treaty, agreement or arrangement entered into pursuant to section 23;

“agent” means any person or unit appointed by the Director to execute designated functions under this Decree, or such other agent as may be appointed in accordance with section 26;

“aircraft” means any craft capable of self-sustained movement through the atmosphere and includes hovercraft;

“aquaculture” means any activity designed to cultivate or farm fish and other living aquatic resources;

“artisanal fisheries” means the traditional fishing in Sierra Leone using artisanal fishing gear and vessels;

“artisanal fishing vessel” includes any local fishing vessel of not more than sixty feet which is motorised or not motorised but does not include vessels used for recreational fishing;

“authorised officer” means any person appointed as such under section 62;

“authorization” means any authorization given pursuant to section 25;

“commercial fishing” means any fishing resulting or intending or appearing to result in the sale or trade of any fish which may be taken, caught or harvested during the fishing operations, excluding recreational fishing;

“Decree” includes any regulation or order made pursuant to this Decree;

“Director” means the Director of Fisheries and Marine Resources;

“driftnet” includes a gillnet or other net which is more than 2.5 kilometres in length the purpose of which is to be used for fishing, but does not include driftnets used for artisanal fisheries;

“driftnet fishing activities” include fishing with the use of a driftnet and any related activities

including transporting, transshipping and processing any driftnet catch, and provision of food, fuel and other supplies for vessels used or outfitted for driftnet fishing;

“engineer” means the holder of a first or second class engineer’s certificate of competency;

“farming” in relation to any fish or other marine vegetation, means the breeding, cultivating and rearing of any such fish or the cultivating of any such vegetation, as the case may be;

“fish” means any living aquatic organism, plant or animal; including any fin-fish, shell-coral, reptile and marine mammal, but excluding aquatic birds;

“fish aggregating device” means any man-made or partly man-made floating or semi-submerged device, whether anchored or not, intended for the purpose of aggregating fish, and includes any natural floating object on which a device has been placed to facilitate its location;

“fish fence” means any fence, stake or other fixed construction used for entrapping fish;

“fish processing” means any process that adds value to or preserves the fish and includes the cutting up, dismembering, cleaning, sorting, loining, freezing, canning, salting and preserving of fish;

“fish processing establishment” means any place other than a licensed fishing vessel where fish are canned, dried, gutted, salted, iced, chilled, frozen, smoked or otherwise processed for sale by wholesale in or outside the Republic of Sierra Leone;

“fisheries officer” means the Director of Fisheries, Deputy Director of Fisheries, Assistant Director of Fisheries, any Principal Fisheries Officer, Senior Fisheries Officer, Fisheries Officer or any other government officer designated by the Director by notice published in the *Gazette* to act as fisheries officer for the purposes of this Decree;

“fishery” or “fisheries” means one or more stocks of fish or any operations based on such stocks which can be treated as a unit for purposes of conservation and management, taking into account geographical, scientific, technical, cultural, economic, recreational and other relevant characteristics;

“fishery plan” means a plan for the management, development and conservation of a fishery implemented pursuant to section 11;

“fishery waters” means the territorial waters as defined in the Interpretation Act, 1971 and includes all waters of the exclusive economic zone and internal waters, riverine systems and any other waters over which fisheries jurisdiction may be claimed from time to time;

“fishing” means:

- (a) searching for, catching, taking or harvesting fish;
- (b) the attempted searching for, catching, taking or harvesting of fish;
- (c) engaging in any other activity which can reasonably be expected to result in the locating, 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 in support of or in preparation for any activity described in this paragraph; or
- (f) the use of an aircraft in relation to any activity described in this paragraph;

“fishing gear” means any equipment, implement or other thing that can be used in the act of fishing, whether or not it is used in connection with a vessel, including any fishing net, rope, line, float, trap, hook, winch, boat or aircraft;

"fishing licence" includes any licence issued under this Decree, unless otherwise provided under this Decree;

"fishing vessel" means any vessel, boat, ship or other craft which is used for, equipped to be used for or of a type that is normally used for—

- (a) fishing;
- (b) the processing or storage of fish or fish products;
- (c) the supply or support of vessels used for purposes described in paragraphs (a) or (b);
- (d) the transportation of fish or fish products from the fishing grounds;

or related activities, including a canoe, motorised fishing vessel and ancillary vessel, but does not include any vessel used for the transportation of fish or fish products to or from a port of Sierra Leone as a part of its general cargo;

"fixed fishing gear" means fishing gear deposited on or attached directly or indirectly to the sea bed, and includes fish traps, fishing stakes and anchored gill nets;

"foreign fishing licence" means any licence issued under this Decree in respect of a foreign fishing vessel;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel and includes any support vessel, notwithstanding that such vessel may be registered under the Registration of Shipping Act, 1965;

Act No. 26
of 1965

"Government" means the Government of the Republic of Sierra Leone;

"industrial fishing vessel" means any fishing vessel more than sixty feet in length;

"Inshore Exclusion Zone", or "IEZ" means that area of the fishery waters situated landward of a line drawn between the points indicated in Schedule 1 of the Fisheries Regulations;

“inspector” means any person authorised in writing by the Director pursuant to section 67;

“licence” means any licence issued under this Decree;

“licenced fishing vessel” means a fishing vessel specified in a valid fishing licence;

“licensing officer” means the Director and any Fisheries Officer designated in writing as such by the Director and who is authorised to take actions with regard to licences under this Decree;

“local fishing licence” means any fishing licence issued under this Decree in respect of a local fishing vessel;

“local fishing vessel” means any fishing vessel described in section 105;

“marine reserve” means any reserve established in fishery waters in accordance with this Decree;

“master” in relation to any fishing vessel, means the person for the time being in command or apparently in charge of that vessel;

“MCS Unit Fund” means the fund established under section 61;

“motorised fishing vessel” means any fishing vessel which is, at relevant times, constructed or adapted for the purpose of fishing and outfitted or equipped with one or more motors for the purpose of moving through the water;

“operator” means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master;

“owner” in relation to a fishing vessel, means any person exercising or discharging or claiming the right of accepting the obligation to exercise or discharge any of the powers or duties of any owner whether on his own behalf or on behalf

of another and includes a person who is the owner jointly with any other person or persons and any manager, director or secretary of any body corporate or company;

“prescribed” means prescribed by regulations, orders or rules.

“qualified company” means any company which is described as eligible to wholly own a local fishing vessel as that term is defined in this section and as otherwise provided in this Decree;

“recreational fishing” means any fishing done for leisure and not for the purpose of subsistence, barter or sale of fish;

“related activities” includes doing, attempting or preparing to do or having done any of the following:-

- (a) transshipment;
- (b) storing, processing or transporting fish taken from the fishery waters up to the time such fish is first landed; or
- (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;

“riverine system” means a natural drainage system comprising rivers and their tributaries which originate from the sources and terminate at their estuaries, and includes any lake, impoundment, dam or weir artificially;

“Secretary of State” means the Secretary of State for the time being charged with the responsibility for matters relating to fisheries and marine resources;

“semi-industrial vessel” means a fishing vessel of length less than sixty feet and powered by an inboard engine.

“support vessel” means any vessel carrying out

operations in connection with and support of a fishing vessel, including supply or fishing activities;

“surveillance officer” includes any authorised officer of a vessel or aircraft used for the enforcement of this Decree;

“test fishing operations” means any fishing operations undertaken over a limited period of time with the approval of the Director pursuant to section 25 for the purposes of testing the feasibility of commercial fishing operations with a view to the establishment of fishery operations based locally, or in the region:

“towing gear” means fishing gear with a bag or cod-end which is towed at the bottom or mid-water by a motorised fishing vessel and used for the purpose of taking fish;

“transshipment” means transferring any fish or fish products to or from any vessel, whether or not the fish has first been taken on board the vessel from which the fish is passed:

“vessel” means any boat, ship or other water going craft.

PART II — AUTHORITY AND ADMINISTRATION

Management.

3. The exclusive management and control over fish, fisheries and other aquatic resources within the fishery waters shall be vested in the Government and this management and control may be exercised either by them directly or through the Secretary of State, the Director of Fisheries or any other authorised officer.

Authority of Secretary of State.

4. The Secretary of State shall have the requisite authority and responsibility in relation to this Decree, and for the preparation and implementation of such additional policy and legislation as he sees fit.

Department and Director of Fisheries and Marine Resources.

5. (1) There is hereby established the Department of Fisheries and Marine Resources, which shall be headed by the Secretary of State to be assisted by a director.

(2) The Director shall be a person who is professionally knowledgeable in fisheries matters and marine resources.

6. The Director, subject to the policy guidance of the Secretary of State, shall have the responsibility for the management, planning and development of, and research into, the fish, fisheries and other aquatic resources of Sierra Leone and shall supervise the Department of Fisheries and Marine resources.

Duties and powers of the Director.

7. The Director may delegate, in writing, the exercise of any or all powers and function conferred upon him by this Decree, except as may be otherwise provided, to his deputy or such other officers as he may think fit.

Delegation by the Director.

8. The Director shall be the Chief Licensing Officer and shall from time to time publish the names of other licensing officers in the *Gazette*.

Licensing officers.

9. The Director shall, as he deems appropriate, consult with relevant government officials and representatives for the fisheries sector in formulating and developing policy recommendations for the Secretary of State.

Consultation by the Director.

10. (1) The Director shall establish a Scientific and Technical Committee.

Scientific and Technical Committee and other Committees.

(2) The Committee shall advise the Director on the biological, social, economic and technical aspects of fish and fisheries, with a view to providing the basis for fisheries management decisions, including total allowable catch.

(3) The Director shall appoint seven members of the Committee having knowledge in the disciplines listed in subsection (2)

(4) The Committee shall meet at least quarterly or when summoned by the Director.

(5) The Chairman of the Committee shall be the Director and the Secretary of the Committee shall be the Deputy Director.

(6) The Director shall incorporate the advice of the Committee into fisheries management plans described in section 11 and otherwise incorporate such advice into management decisions.

(7) The Director may establish such other Committees as he may think appropriate at the local or national level which may be composed of fishermen or other persons actively involved in the fisheries of Sierra Leone to advise him, on matters relating to the development and management of such fisheries and the welfare of fishermen.

(8) Reasonable allowances or expenses shall be paid to members attending meetings of any committee established under this section.

PART III — MANAGEMENT AND DEVELOPMENT OF THE
FISHERIES OF SIERRA LEONE

Fisheries
management,
development
and conserva-
tion plans.

11. (1) The Director shall be responsible for planning for the management, development and conservation of all fish and fisheries within the jurisdiction of the Republic of Sierra Leone.

(2) The Secretary of State may, on the recommendation of the Director, by notice published in the *Gazette*, authorise a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery—

- (a) is important to the national interest; and
- (b) requires management and development measures for effective conservation and optimum utilisation.

(3) In order to assess and recommend appropriate management, development and conservation measures for any fishery, the Director may reasonably require any person to furnish all relevant data and information, including fishing time and effort, landing, process, sales and other related transactions.

(4) The Director shall —

- (a) prepare, keep under review and be responsible for the implementation of plans for the management and development of each designated fishery in the fishery waters;
- (b) prepare, keep under review and be responsible for the implementation of plans for the management and development of other fisheries in the fishery waters as may be practicable, with the objective and developing additional plans on an annual basis for all fisheries in the fishery waters; and

- (c) determine the priority for preparation of fishery plans, taking into account the advice of any committee established and carrying out its functions under this Decree.
- (5) Each fishery plan shall —
- (a) identify the fishery resource and its characteristics, including its economic and social value and interrelationship with other species in the ecosystem;
 - (b) assess the present state of exploitation of the fishery resource and potential average annual yields;
 - (c) specify the objectives to be achieved in the management and development of the fishery;
 - (d) taking into account the best information on all relevant biological, social, economic and other applicable factors, determine the maximum sustainable yield;
 - (e) taking into account advice of any committee established and performing its functions under this Decree and information described in the preceding paragraphs, determine a total allowable catch for each fishery and such other conservation and management measures as may be appropriate;
 - (f) where there is insufficient information and advice to set a total allowable catch identify a plan for determining such information and take appropriate conservation and management measures, taking into account the advice of any committee established and performing its functions under section 10 and applying precautionary principles;
 - (g) specify the measures, if any, to be taken to promote the development of local fisheries;
 - (h) determine the amount of the fishery resource, if any, to be made available to licensed foreign fishing vessels;
 - (i) specify the conservation and management

measures to be enforced to protect the fishery resource from over-exploitation;

- (j) specify the research necessary to enhance management of the fishery;
- (k) specify the information and other data required to be given or reported for effective management and development; and
- (l) take into account any relevant traditional fishing methods or principles.

(6) The Director shall, during the preparation of each fishery plan, consult as required and appropriate with any committee which may be established and performing its functions under this Decree and—

- (a) other government ministries or departments;
- (b) local fishermen, local authorities and other persons;

affected by the plan.

(7) The Director shall consult wherever practicable with the appropriate fisheries management authorities of other States in the region, and in particular with those sharing the same or interrelated stocks, with a view to ensuring the harmonisation of their respective fishery management and development plans.

(8) Each fishery plan or review shall come into force upon the written approval of the Director.

(9) Any person who engages in fishing or related activities in the fishery waters or who processes or sells fish taken from the fishing waters shall supply such information in respect of such activities as the Director may require pursuant to subsection (3)

(10) Any person who fails to supply information required under subsection (3) or (9) commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand leones in respect of artisanal fisheries or five million leones in respect of all other fishing or a term of imprisonment not exceeding two years or to both.

Objectives and purposes for management and development of fisheries.

12. The Director shall take into account the following objectives and purposes in the preparation of fisheries management and development plans and otherwise in management decisions —

- (a) establish priorities for the utilisation of the

fisheries resources which will provide the greatest overall benefits to the country;

- (b) ensure the proper conservation of the fishery resource through the prevention of overfishing and the taking of a precautionary approach toward harvesting when data about the fishery resource are lacking;
- (c) base management practices on sound management principles and the best scientific information available, to be gained through national and international research programmes;
- (d) minimise, to the extent practicable, fishing gear conflicts among users;
- (e) develop the Sierra Leone fisheries sector, and in so doing give preference to the needs of local fisheries over those of foreign fisheries.

13. The Secretary of State, in the implementation of this Decree, may take such action as he deems necessary to protect and promote artisanal and semi-industrial fisheries, including —

Protection and promotion of artisanal and semi-industrial fisheries.

- (a) exempting indefinitely in writing, or for such period of time as he may specify, such fisheries from any requirement concerning licensing and the payment of fees under this Decree
- (b) providing assistance in the establishment and development of fishing, fish processing or marketing cooperative societies;
- (c) establishing reserved areas for artisanal or semi-industrial fishing;
- (d) giving priority to artisanal or semi-industrial fisheries in the allocation of fishing licences or quotas; and
- (e) taking such other action as he deems necessary for the protection and promotion of such fisheries.

14. (1) The Secretary of State shall consult, as appropriate, with foreign Governments and in particular with Governments of States sharing the same or interrelated stocks with a view to—

Consultation on international fisheries management.

- (a) ensuring the closest practicable harmonisation or coordination of their respective fisheries management and development plans and regulations;
- (b) ensuring harmonisation in the collection of statistics, the carrying out of surveys and procedures for assessing the state of the fisheries resources in the region;
- (c) providing, as appropriate, for the formulation of regional fisheries management and development plans, for the allocation of fishing effort and catch among States sharing the same stocks, and for taking regional or joint conservation measures;
- (d) establishing, on a bilateral or regional level as appropriate, arrangements regarding fishing rights with other States in accordance with the provisions of the relevant Fisheries Management and Development Plan.

(2) Consultations under this section may be undertaken either directly with the Governments or persons concerned, or through existing appropriate regional or sub-regional organisations or international agencies.

**PART IV — LICENSING OF LOCAL FISHING VESSELS,
FIXED FISHING GEAR OR BEACH SEINE**

Use of local fishing vessels, fixed fishing gear and beach seines.

15. (1) No local fishing vessel, fixed fishing gear or beach seine shall be used for fishing in the fishery waters, except under the authority of a valid local fishing licence issued in accordance with this Part, unless otherwise provided in this Decree.

(2) The Secretary of State may make regulations extending the provisions of this section to require the licensing of local fishing vessels or any class of local fishing vessels to be used for transshipment, processing or storage of fish in the fishery waters.

(3) Where any local fishing vessel, fixed fishing gear or beach seine is used in contravention of the provisions of this section, the master, owner and charterer, if any, of such vessel or any person who uses such fishing gear or beach seine each commits an offence and is liable on conviction to a fine of not less than two million leones or to imprisonment for a term of two years or to both.

16. (1) Subject to the provisions of this Decree, the Director may issue a local fishing licence in respect of any local fishing vessel, fixed gear or beach seine upon application made and payment of the prescribed fee in accordance with this Decree, authorising such fishing activities as may be specified in the licence.

Local fishing licences.

(2) A local fishing licence shall not be issued in respect of any local fishing vessel—

- (a) required to be registered under the Registration of Shipping Act, 1965, unless such vessel has been so registered; or
- (b) exceeding 15 net tons unless it holds such certificate of safety inspection as may be required by the Government.

Act No. 26 of 1965.

(3) The Director may perform such other functions in respect of local fishing licences as are provided in Part VIII and otherwise in this Decree, and as may be prescribed from time to time.

17. Where a local fishing vessel, fixed fishing gear or beach seine for which a local fishing licence has been issued under this Part has been used in the commission of an act prohibited by this Decree or any licence condition, the Director may—

Cancellation, suspension or modification of local fishing licences.

- (a) cancel such licence;
- (b) suspend such licence for such time as he may deem appropriate; or
- (c) impose additional or modified conditions for such licence.

18. (1) Except as otherwise provided in this section, local fishing licences shall not be transferable from one vessel to another vessel.

Transferability of local fishing licences.

(2) Licences issued in respect of fixed fishing gear or beach seines may be transferred provided that the fixed fishing gear or beach seine to which the licence is transferred is of equal dimensions and characteristics and is to be deployed or operated in the same location and manner as the gear or beach seine previously licensed and in place of such gear or beach seine.

(3) Licences issued under this Part may be transferred upon

change of ownership of the local fishing vessel, fixed fishing gear or beach seine to the new owner under the following conditions —

- (a) the previous owner and new owner shall both notify the Director in writing of the transfer of ownership within thirty days of such transfer; or
- (b) in respect of any local fishing vessel, the new owner shall meet the nationality criteria in section 105, and the conditions for refusal to issue a licence under this Decree do not exist.

(4) The Director shall endorse the licence if the above conditions are met, and the transfer will be valid upon such endorsement.

(5) The Director, if he thinks it necessary, in order to give effect to any scheme for the restriction of effort in respect of any fishery under a fishery management and development plan adopted under this Decree, may in writing do any or all of the following—

- (a) order that any licence to engage in that fishery may not be transferable from one vessel to another vessel, or that the surrender of licences may give rise to rights to new licences;
- (b) require that any licence issued in respect of a local fishing vessel engaged in that fishery should not, on a change of ownership of the vessel, be transferable to the new owner without the written permission of the Director; or
- (c) set the conditions under which permission shall be given in respect of transfers of licences.

(6) Any person who, being the previous owner or new owner of a licensed local fishing vessel does not notify the Director in writing within thirty days of the transfer of ownership, commits an offence and is liable on conviction to a fine not less than five hundred thousand leones and the licence in respect of that vessel shall be deemed cancelled at the expiration of the said thirty days period.

Licence fees. 19. (1) Licence fees for licences in respect of local fishing vessels, fixed fishing gear and beach seines shall be prescribed by regulation, taking the following into account —

- (a) the value of the species;
- (b) the development of the local Sierra Leone fishery sector;
- (c) costs associated with management and development of the fishery;
- (d) any recommendation of the Licensing Committee established under this Decree.

(2) Licence fees may be classified, *inter alia*, according to the value of species sought, and the length overall, gross tonnage, type of gear or other method related to the harvesting potential of the vessel, gear or beach seine.

(3) Such fees shall reflect a general policy of this Decree of development of the Sierra Leone fisheries sector.

20. The Director shall issue licences for aquaculture operations in such form and in accordance with such requirements as may be prescribed, and shall be informed of all aquaculture operations in the country. Aquaculture.

PART V — FOREIGN FISHING VESSELS

21. (1) No foreign fishing vessel shall— Foreign fishing vessels.
- (a) enter the fishery waters except for a purpose recognised by international law; or
 - (b) be used for fishing or related activities in fisheries waters or for such other activities as may be provided in this Decree except in accordance with a valid licence issued pursuant to this Decree, an applicable access agreement or as otherwise authorised by this Decree.

(2) No person, being aboard a foreign fishing vessel or being a member of the crew of or attached to or employed on a foreign fishing vessel, shall in the Republic of Sierra Leone or in the fishery waters engage in fishing or related activities except in accordance with this Decree.

(3) The owner, operator and each member of the crew of any foreign fishing vessel in the fisheries waters shall comply with any

applicable access arrangement and all applicable laws of the Republic of Sierra Leone including this Decree.

(4) All fishing gear on board any foreign fishing vessel in any place in the fishery waters where it is not permitted to fish shall be stowed in such manner as it shall not be readily available for use for fishing or as may be prescribed.

(5) Each foreign fishing vessel in any place in the fisheries waters shall be operated in such a way that the activities of local and traditional fishermen and fishing vessels are not disrupted or in any other way adversely affected.

(6) Where any foreign fishing vessel is used in the contravention of subsection (2), (3), (4) or (5), the owner, charterer and master of that vessel each commits an offence, and shall be liable on conviction to a fine of not more than the leone equivalent of one hundred thousand United States dollars.

Foreign fishing licence.

22. (1) No licence shall be issued authorising a foreign fishing vessel to engage in fishing in the fishery waters unless an access arrangement is in place which shall be, in the form of an access agreement or charter agreement which meets the requirements of this Decree.

(2) Subsection (1) shall not apply to a licence issued in the absence of an applicable access arrangement in respect of —

- (a) marine scientific research; or
- (b) testing fishing operations.

(3) Subject to the provisions of this Decree, the Director may issue a licence in respect of any foreign fishing vessel authorising that vessel to be used in the fishery waters for such fishing or related activities as may be specified in the licence or for other purposes in accordance with this Decree.

Access agreements.

23. (1) The Secretary of State may, on behalf of the Government of the Republic of Sierra Leone, enter into international access agreements with any foreign Government, Association or other legally constituted entity with the power and authority to undertake enforcement and compliance responsibilities, providing, among others, for fisheries access, related activities or such other matters which may be provided for under the provisions of this Decree.

(2) Fishery allocations under access agreements shall not exceed a level consistent with the conservation and management of fishery resources and the protection of fishing by Sierra Leone citizens,

and shall be consistent with any fishery plan.

(3) Every access agreement shall include such provisions as may be required to implement minimum terms and conditions of fisheries access in accordance with this Decree, including —

- (a) establishing the responsibility of the foreign party to take all measures to ensure compliance by its vessels with the terms and conditions of the access agreement and with all applicable laws, including those relating to fishing and related activities in the fishery waters;
- (b) the issuance of licences and payment of fees for fishing, fish related activities or other activities or operations described in this Decree;
- (c) a provision that the owner, charterer, operator, master or any other person responsible for the operation of a licensed vessel shall not tranship fish at sea except only at designated times and places and in accordance with this Decree; and
- (d) such other matters as may be required for effective implementation of the access agreement in accordance with this Decree.

24. (1) Any citizen of Sierra Leone or qualified company that entered into a charter agreement for the use of a foreign fishing vessel shall submit the charter agreement to the Director for designation as an approved charter agreement.

Chartered
foreign
fishing
vessels.

(2) The Director may determine whether to approve a charter agreement taking the following guidelines into account, and such other guidelines as may be prescribed —

- (a) the number of fishing vessels, total allowable catch or other factors relevant to fisheries conservation and management;
- (b) the revenue, including foreign exchange, to be derived from the fishery;
- (c) employment of Sierra Leone Citizens;
- (d) the needs of the fishery sector;

- (e) any other consideration relevant to sound fisheries management; and
- (f) the recommendation of the Licensing Committee.

(3) The Director may approve a charter agreement only if the following requirements are met —

- (a) the charter agreement vests operational control of the foreign fishing vessel in such citizen or qualified company and meets the other conditions for approval contained in this Decree, and such other conditions which may be prescribed by regulation;
- (b) the foreign fishing vessel is otherwise entitled to receive a foreign fishing licence;
- (c) the charter agreement is in full compliance with all applicable laws of Sierra Leone, and all required documentation is in order;
- (d) he is satisfied, taking into account among others, financial statements and past performance of the company, that all financial obligations will be met promptly and effectively, including full payment of all fees and any fine, penalty or other determination which may result from the vessel's activities;
- (e) the charter agreement provides clearly identifiable benefits, with no adverse effects to Sierra Leone, including —
 - (i) development of the local Fishing Industry;
 - (ii) foreign exchange earnings for Sierra Leone;
 - (iii) landing and domestic distribution activities; and
 - (iv) development of export opportunities.

(4) Any vessel fishing under an approved charter agreement shall be subject to all requirements of this Decree in respect of foreign

fishing vessels, including licensing and compliance requirements and penalty levels; except that such lower licence fee may be prescribed by regulation at a level not less than that required for local fishing licences.

25. (1) Where there is no applicable access arrangement, the Director may authorise marine scientific research or test fishing operations in the fishery waters upon completion of procedures required under this Decree.

Authorization of marine scientific research and test fishing.

(2) The Director shall attach such conditions to any authorization issued pursuant to subsection (1) as may be prescribed and may attach such additional conditions as he thinks fit and which are consistent with conditions which may be prescribed.

(3) Any authorization granted under this section shall be in writing and in such form as may be prescribed or otherwise required.

(4) Each person authorised in accordance with this section shall comply with all applicable laws of the Republic of Sierra Leone and the conditions of such authorization.

(5) The Director may refuse to issue, suspend or cancel such authorization in accordance with this Decree if there is failure to comply with the requirements of this Decree or the conditions of the authorization.

(6) Any person who undertakes marine scientific research or test fishing operations in respect of a foreign fishing vessel without an authorization issued under this section, or who contravenes subsection (4) commits an offence and is liable on conviction to a fine not less than the leone equivalent of one hundred thousand United States dollars.

26. The Director shall require that, prior to the issuance of a licence in respect of any foreign fishing vessel the applicant shall appoint an agent within Sierra Leone; who is a citizen of Sierra Leone or has resided continuously within Sierra Leone for a period of at least five years immediately prior to such appointment, with no record of conviction, who shall be authorised to receive and respond to any legal process issued in Sierra Leone with respect to the activities of the vessel, its owner, operator, master and crew members.

Appointment of agents.

27. (1) The Director may require that, prior to the issuance of a licence to any foreign fishing vessel, the applicant or his authorised agent shall post a performance bond which may be applied to the payment of any fine, penalty or other determination for any offence under this Decree committed by or in respect of that vessel.

Posting of bonds.

(2) The Director may further require that the posting of a performance bond during the period of validity of the licence shall be a condition of the licence.

Cancellation,
suspension or
modification
of licences.

28. If any foreign fishing vessel for which a licence has been issued under this Part has been used in the commission of an act prohibited by this Decree, or any regulations or orders issued under it or any condition of that vessel's licence, the Director may—

- (a) cancel such licence;
- (b) suspend such licence for such time as he may deem appropriate;
- (c) impose additional or modified conditions for such licence.

Fees for
foreign
fishing
licences.

29. (1) The Secretary of State may by regulations prescribe the fees to be paid in respect of the issuance of a foreign fishing licence and shall in prescribing such fees take into account—

- (a) the value of the fish species being sought;
- (b) the quantity of the species sought;
- (c) the efficiency of the gear;
- (d) alternative used of the fishery resources;
- (e) the cost of fishery management and development;
- (f) the cost of fisheries research, administration and enforcement; and
- (g) the recommendation of the Licensing Committee,

with a view to extracting a suitable economic rent for the fishery resource.

(2) The Secretary of State may by regulation provide for the classification of licence fees.

(3) Such fees shall reflect a general policy of development of the Sierra Leone fisheries sector.

Part VI – CONSERVATION MEASURES

30. (1) No semi-industrial or industrial vessel shall fish inside the Inshore Exclusion Zone which is reserved exclusively for artisanal and recreational Fishing.

Fishing in specified area prohibited.

(2) No canoc operating with a canoc support vessel shall fish in the Inshore Exclusion Zone.

(3) Subsection (1) shall not limit artisanal fishermen to fish in the Inshore Exclusion Zone.

(4) No person shall use, on a semi-industrial or industrial vessel of 50 Gross Registered Tonnage or more, a bottom trawl in coastal waters or less than fifteen meters depth.

(5) The Director may exempt in writing a research or any other fishing vessel from the provisions of subsection (4).

(6) Any person who contravenes subsection (1), (2) or (4) commits an offence and is liable on conviction to a fine of not more than two million leones in respect of local vessels and the leone equivalent of twenty thousand United States dollars in respect of foreign vessels or imprisonment for a term of not more than two years or to both.

31. (1) No person aboard a motorised fishing vessel shall destroy or damage the fishing gear inside the Inshore Exclusive Zone of any artisanal fisherman.

Destruction of fishing gear of artisanal fisherman in the Inshore Exclusion Zone.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of not more than one million leones; in addition, the master, owner and agent of the vessel used for the commission of the offence shall be jointly and severally responsible for providing to the aggrieved artisanal fisherman –

(a) full compensation for the destroyed gear in kind or in cash; and

(b) adequate compensation for lost fishing time.

32. (1) The Director may declare in writing closed seasons including their duration, for fishing in specified areas of coastal waters or the riverine system.

Closed seasons.

(2) Any person who engages in fishing during a closed season declared in accordance with this section commits an offence and is liable on conviction to a fine of not more than two million leones in respect of local fishing vessels and the leone equivalent of one hundred thousand United States dollars in respect of foreign vessels or imprisonment for a term of not more than two years or to both.

Manufacture, importation or sale of fishing nets.

33. (1) The Director may specify in writing the nature and type of fishing nets to be manufactured or imported into Sierra Leone.

(2) Except as otherwise provided in subsection (3), no person shall —

(a) import into, manufacture, sell or use for fishing in Sierra Leone any fishing net or netting the mesh of which is less than 25 millimeters in stretched diagonal length;

(b) use any authorised contrivance as fishing gear for the purpose of taking fish in any body of water.

(3) The Director may for the purposes of fisheries research or other activity approve in writing the importation, manufacture or use of such net or netting, subject to such conditions as he deems fit.

Minimum mesh of trawl nets.

34. No person shall operate from or carry on board in any fishing craft a trawl net the mesh of which is less in stretched diagonal length than the prescribed mesh.

Prohibition of use of seine nets in inland waters.

35. (1) Subject to subsection (2), no person shall use a seine net in any river or body forming part of the riverine system.

(2) The Director may permit in writing the use of seine nets in estuarine waters but no such permit shall authorise the use of seine nets the mesh of which is less than fifty millimetres in stretched diagonal length.

Minimum mesh of seine net in coastal waters.

36. No person shall use for fishing in coastal waters a seine net the mesh of which is less than twenty-five millimetres stretched diagonal length.

Minimum mesh of gill net in riverine system.

37. No gill net, whether drifting or set, shall be used in any river or body of water forming part of the riverine system if the mesh of the net is less than fifty millimetres in stretched diagonal length; in the case of multifilament net or seventy-five millimetres in stretched diagonal length in the case of monofilament net.

38. No person shall set for the purpose of fishing any net across any river from bank to bank so as to form a barrier.

Prohibition on use of net on barrier.

39. No person shall use for fishing any net the mesh of which is less than—

Mesh restrictions for nets used on industrial fishing vessels.

- (a) sixty millimetres in stretched diagonal length for the meshes forming the cod-end of the net for demersal trawl nets; and
- (b) forty-two millimetres in stretched diagonal length for the meshes in the cod-end for catching shrimp and other shellfish;
- (c) thirty-two millimetres in stretched diagonal length for seine nets;
- (d) in the case of a trawl net, where the sides of the net are less than the mesh of the cod-end.

40. Any person who contravenes sections 33 to 39 commits an offence and is liable on conviction to a fine of not more than three million leones in respect of local vessels and the leone equivalent of three hundred thousand United States dollars in respect of foreign vessels and in addition the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited or the fishing licence may be cancelled or suspended for such period as the Director thinks fit.

Offences for contravention of sections 33 to 39.

41. (1) No person shall knowingly take gravid lobsters or any other gravid crustacea during fishing and where any such gravid lobsters or crustacea are accidentally taken they shall be immediately returned to the sea, river or lake as the case may be.

Protection of gravid and young lobsters and other crustacea.

(2) All young lobsters or crustacea that may be caught during fishing as a by-catch shall be immediately returned to the sea, river or lake as the case may be, or otherwise be dealt with in a manner as may be prescribed from time by regulations.

(3) Any person who contravenes this section commits an offence and is liable on conviction to a fine of not more than two million leones in respect of local fishing vessels and the leone equivalent of ten thousand United States dollars in respect of foreign fishing vessels; and in addition the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited or the fishing licence may be cancelled or suspended for such period as the Director thinks fit.

Marking of semi-industrial and industrial vessels, canoes and gear.

42. (1) The Licensing Officer shall allocate to every semi-industrial and industrial vessel used for fishing activities described in this Part such registration letters and numbers and other markings as may be prescribed.

(2) The Licensing Officer shall allocate to every fishing vessel used for fishing activities described in this Part such letters and numbers and other markings as he may determine. The owner of the canoe shall also disclose the type of gear he shall use and if it is a net the length and depth of the net shall be stated in the application form.

(3) Every submerged stationary fishing gear or surface drifting gear shall bear conspicuous surface marks using brightly coloured buoys, flags or floating poles and night lighted markers all of which must at least be visible in clear weather at a distance of one nautical mile; except that in the case of nets the markers shall be placed at intervals of twenty-five meters along the full length of the net.

(4) Any person who contravenes this section commits an offence and is liable on conviction to a fine of not more than two hundred thousand leones; and in addition the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited or the fishing licence may be cancelled or suspended for such period as the Director thinks fit.

Driftnet fishing activities.

43. (1) No fishing vessel shall be used for or assist in any driftnet fishing activities in the fishery waters.

(2) No person, being a national of Sierra Leone, shall engage or assist in any driftnet fishing activities.

(3) Any person who contravenes this section commits an offence and is liable on conviction to a fine of not more than two million leones; and in addition the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited or the fishing licence may be cancelled or suspended for such period as the Director thinks fit.

Prohibited fishing methods.

44. (1) No person shall —

- (a) permit to be used, use or attempt to use any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or

- (b) carry or have in his possession or control any explosive, electric shock device poison or other noxious substance in circumstances indicating an intention of using such substance for any of the purposes referred to in paragraph (a).

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

(3) Any person who lands, sells, receives or possesses any fish taken by any means contrary to subsection (1) (a), and who knows or has reasonable cause to believe them to have been so taken, commits an offence and is liable on conviction to a fine of not more than two million leones or where a foreign fishing vessel has been used the leone equivalent of one hundred thousand United States dollars or to imprisonment for a term not exceeding two months or to both.

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

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

45. (1) Subject to subsection (3), no person shall fish for marine mammals in the fishery waters.

Fishing for
marine
mammals.

(2) Any marine mammal caught accidentally shall be released immediately and returned to the waters from which it was taken with the least possible injury.

(3) The Director may give written authorization to fish for marine mammals in a limited manner.

(4) Any person who contravenes the provisions of subsection (1) or (2) commits an offence and shall be liable on conviction to a fine of not more than three million leones or where a foreign fishing vessel has been used the leone equivalent of one hundred thousand United States dollars or to imprisonment for a term not exceeding two months or to both.

Marine reserves.

46. (1) The Secretary of State may, after consultation with owners of adjoining land and with the appropriate local government authority, declare any area of the fishery waters and the seabed underlying such waters to be a marine reserve.

(2) Any person who, except with the written permission of the Secretary of State, within any marine reserve declared in accordance with this section—

- (a) engages in fishing;
- (b) dredges or takes any sand or gravel; or
- (c) otherwise disturbs the natural habitat,

commits an offence and is liable on conviction to a fine of not more than three million leones or if a foreign fishing vessel has been used the leone equivalent of one hundred thousand United States dollars or to imprisonment for a term not exceeding six months or to both.

Pollution of fishery waters.

47. Any person who directly or indirectly introduces any deleterious substance into the fishery waters which adversely affects the habitat or health of the fish or other living aquatic resources is guilty of an offence and is liable on conviction to a fine of not more than three million leones or if a foreign fishing vessel is used the leone equivalent of one hundred thousand United States dollars; and such additional amount as may be determined in compensation for any loss suffered as a result of such deleterious substance and the cleanup costs.

Fisheries impact assessments.

48. (1) Any person or Government Department or other agency planning to conduct any activity other than fishing, which is likely to have a substantial impact on the fishery resources or other aquatic resources of Sierra Leone, shall inform the Director of such plans and consult with him prior to the commencement of the planned activity with a view to the conservation and protection of such resources.

(2) The Director may make or require reports and recommendations by those conducting the planned activity regarding the likely impact of such activity on the fishery resources or other aquatic resources of Sierra Leone and possible means of preventing or minimising adverse impacts, which shall be taken into account by the person, Government Department or other agency in the planning of the activity and in the development of means of preventing or minimising any adverse impacts.

Import and export of live fish.

49. (1) No person shall import into or export from Sierra Leone

any live fish except in accordance with such procedures as may be prescribed.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and on conviction is liable to a fine of not more than three million leones or to a term of imprisonment not exceeding six months.

**PART VII – BUILDING, IMPORTATION AND MANNING OF
MOTORISED FISHING VESSELS**

50. (1) No person shall undertake in Sierra Leone the building of industrial fishing vessels unless he has been granted a licence to do so by the Secretary of State.

Building and
sale of
motorised
fishing
vessels.

(2) The design for the building of any industrial fishing vessel shall be subject to the approval and supervision of the Director or such person or persons as he may designate in writing who shall be officials of the Department of Fisheries and Marine Resources.

(3) No person shall offer for sale, whether within or outside Sierra Leone, any new industrial fishing vessel built in Sierra Leone unless there has been issued in respect of that vessel a Certificate of Sea Worthiness in accordance with the laws of Sierra Leone.

(4) The Secretary of State may, in consultation with any relevant authority, prescribe the standards and specifications for the design and construction of industrial fishing vessels and also for the application forms for the licence described in subsection (1).

(5) Any person who contravenes subsection (1) or (3) commits an offence and is liable on conviction to a fine of not more than five hundred thousand leones or to a term of imprisonment of not more than one year or to both; and in addition the court may order the forfeiture of the vessel in respect of which the offence was committed.

51. (1) No person shall, without the prior approval in writing granted by the Secretary of State import into Sierra Leone any industrial fishing vessel.

Importation
of industrial
fishing
vessels.

(2) The owner, operator and master of any vessel used in contravention of the provisions of subsection (1) commits an offence and is liable on conviction to a fine of not more than five hundred thousand leones or to a term of imprisonment not exceeding two years or to both; and in addition the court may order the forfeiture of the vessel in respect of which the offence was committed.

Manning of
motorised
fishing
vessels.

5. (1) A motorised fishing vessel exceeding 60 Gross Registered Tonnage shall not proceed to sea or call at a port in Sierra Leone unless it has on board—

- (a) a skipper, mate or secondhand, each holding a Certificate of Competency issued by the competent authority;
- (b) an engineer who holds a First Class Engineer's Certificate of Competency issued by a competent authority;
- (c) an engineer who holds a Second Class Engineer's Certificate of Competency issued by the competent authority;
- (d) a bosun who holds an Able Bodied Seaman's Certificate of Competency issued by the competent authority;
- (e) in the case of a vessel equipped with marine radio telephone, a radio operator with the requisite Certificate of Competency issued by a competent authority;
- (f) in the case of a vessel equipped with marine telegraphy, a radio officer with the requisite Certificate of Competency issued by the competent authority.

(2) No motorised fishing vessel of less than 60 Gross Registered Tonnage shall proceed to sea in Sierra Leone unless it is provided with—

- (a) a coxswain who holds a Certificate of Competency issued by a competent authority; or
- (b) a marine motor mechanic who holds a Certificate of Competency issued by the competent authority.

(3) Except in case of emergency at sea no person shall—

- (a) hold himself out as a skipper, second hand, radio officer, radio operator, bosun or engineer

of a semi-industrial or industrial vessel without first ascertaining that he has been duly certificated as such in accordance with this section;

- (b) employ any person as a skipper, second hand, radio officer, radio operator, bosun or engineer of a semi-industrial or industrial vessel without first ascertaining that he has been duly certificated as such in accordance with this section.

(4) For the purpose of this section a person shall be deemed to be duly certificated as a skipper, second hand, radio officer, radio operator, bosun or engineer of a semi-industrial or industrial vessel if he holds for the time being a Certificate of Competency granted by the competent authority.

(5) Where the skipper or engineer of a semi-industrial or industrial vessel is absent, the competent authority may on application by the owner of the vessel and on being satisfied that the absence of the skipper or engineer is unavoidable, authorise the holder of a lower grade fishing certificate to act for a period to be specified, but not exceeding four months, as the skipper or engineer of the vessel as the case may be during the period that the skipper or engineer is absent, and the holder of the lower grade Certificate of Competency so authorised to act shall for the purposes of this section be deemed to be the duly certificated skipper or engineer.

(6) A competent authority designated in writing by the Director shall keep a record of every Certificate of Competency issued in accordance with this section and of any suspension, alteration or cancellation or any other matter affecting any such Certificate.

(7) Any person who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine of not more than three hundred thousand leones or to a term of imprisonment not exceeding six months or to both.

PART VIII – LICENSING: GENERAL

53. (1) Applications for licences shall be made in the form and in accordance with procedures prescribed by regulations.

Application
for licences.

(2) Such documentation as may be prescribed or otherwise required under this Decree shall be submitted to the Director with the application for licence.

Conditions of licences.

54. (1) Every licence issued under this Decree shall be in the prescribed form, and may be subject to—

- (a) such conditions as may be prescribed; and
- (b) such special conditions as may be specified under subsection (3).

(2) The Secretary of State may, by notice published in the Gazette, specify general conditions, consistent with this Decree, any applicable fishery plan, access agreement or multilateral agreement, additional to those to which all licences or any category of licences shall be subject.

(3) (a) The Director may attach to any licence such special conditions consistent with this Decree, any applicable fishery management plan and access arrangement as he thinks fit.

(b) The Director may from time to time where he is satisfied that it is expedient for the proper management of fisheries in the fishery waters, vary any special conditions attached to any licence.

(c) Where any special conditions attached to any licence are varied, the Director shall notify the licence holder of the variation as soon as practicable.

Fees and other forms of compensation.

55. (1) There shall be payable in respect of every licence or authorization issued under this Decree such fees, royalties or other forms of compensation as may be prescribed or as may otherwise be provided under this Decree.

(2) No licence shall be issued and no authorization shall be given pursuant to this Decree unless the required fees, royalties and other forms of compensation have been paid in accordance with this Decree and an applicable access arrangement.

Validity of licences.

56. (1) Subject to this section, every licence issued under this Decree shall, unless earlier cancelled or suspended in accordance with this Decree, be valid for a period not exceeding one year, or such lesser period as may be specified, and shall not extend beyond the period of validity of an applicable access arrangement.

(2) A licence issued under this Decree shall only be valid for the species of fish and the type of fishing gear or method of fishing or such other activity in accordance with this Decree as may be specified in the licence.

(3) Every local fishing licence shall be valid for such period not exceeding one year, unless otherwise specified on the licence, or for such lesser period as may be specified on the licence.

(4) Each fish processing export establishment licence shall, unless otherwise specified or earlier cancelled or suspended in accordance with this Decree, be valid for a period not exceeding one year, and shall not be transferable.

(5) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the licence shall automatically terminate.

57. Except as otherwise provided in this Decree, no licence issued under this Decree shall be transferable except with the written permission of the Director and in accordance with any applicable access arrangement. Transferability of licences.

58. A licence or authorization issued under this Decree shall not relieve any licensee, or the master or crew of a fishing vessel of any obligation or requirement imposed by law concerning navigation, health, customs, immigration or any other matter. Observation of laws.

59. (1) Any person aggrieved by decision to — Appeals.

- (a) refuse to issue or renew a licence issued under this Decree; or
- (b) cancel or suspend a licence issued under this Decree;

may, within thirty days of receipt of notification of that decision appeal to the Secretary of State, whose decision, which may not be delegated, shall be final.

(2) Until such time as the Secretary of State decides such appeal, the decision from which the appeal is taken shall remain in force.

60. (1) The Director shall cause to be maintained a register of all licences issued pursuant to this Decree, containing information relating to — Register of licences.

- (a) the nature of the activity licensed;
- (b) the vessel, person or establishment licensed; and
- (c) the period of validity of each licence;

and such additional information relating to the licences as may be prescribed.

PART IX – MONITORING, CONTROL, SURVEILLANCE AND ENFORCEMENT

Establishment and functions of Monitoring Unit.

61. (1) There shall be established in the Department of Fisheries and Marine Resources a unit to be known as the Fisheries Monitoring, Control, Surveillance and Enforcement Unit (hereafter referred to as "the Unit").

(2) The Unit shall be responsible for—

(a) monitoring, control and surveillance of all fishing operations within the fishery waters; and

(b) the enforcement of this Decree.

(3) The Director may from time to time request the services of personnel from other Departments, Agencies or other competent bodies to assist the Unit in the performance of its functions.

(4) The Director may in writing designate personnel of the Unit as authorised officers in accordance with this Decree, and such personnel shall exercise all powers and privileges accorded by this Decree and as may be conferred by any enactment of Sierra Leone on police officers.

(5) The Director shall establish a special fund called the "Monitoring, Control, Surveillance and Enforcement Unit Fund" into which all fines and penalties imposed under this Decree or other fisheries laws shall be deposited, and this fund shall be subject to standard auditing procedures and used to contribute to the operations of the Unit, and such other management activities of the Department as the Director may designate, which should include among other things training and research.

Appointment of authorised officers

62. (1) The Director may, in writing, appoint any person or category of persons as authorised officers for the purposes of this Decree.

(2) Any fisheries officer within the Department of Fisheries and Marine Resources or any agent appointed in writing by the Director shall be deemed an authorised officer for the purposes of this Decree.

Powers of authorised officers.

63. (1) For the purposes of enforcing this Decree, any authorised officer may, without a warrant or other process—

- (a) stop, board, remain on board and search any vessel in the fishery waters he reasonably believes is a fishing vessel, or other fishing vessel registered under the laws of Sierra Leone outside the fishery waters, and stop and search any vessel, vehicle or aircraft he reasonably believes may be transporting fish or engaging in other activities relating to fishing; Register of licences.
- (b) require the master or any crew member or other person aboard to inform him of the name, call sign and country of registration of the vessel and the name of the master, owner, charterer or other crew member;
- (c) examine the master or any crew member or other person aboard about the cargo, contents of holds and storage spaces, voyage and activities of the vessel;
- (d) make such examination and inquiry as may appear necessary to him concerning any vessel, vehicle or aircraft in relation to which any of the powers conferred by this subsection have been or may be exercised and take samples of any fish or fish product found on it;
- (e) require to be produced, examine and take copies of any licence, logbook, record or other document required under this Decree or concerning the operation of any vessel or aircraft;
- (f) make an entry dated and signed by him in the logbook of such vessel or aircraft;
- (g) require to be produced and examine any fish, fishing gear or appliance or explosive, poison or other noxious substance;

- (h) give directions to the master or any crew member of any vessel, vehicle or aircraft stopped, boarded or searched as may be necessary or reasonably expedient for any purpose specified in this Decree or to provide for the compliance of the vessel, vehicle or aircraft, or master or any crew member with the conditions of any licence or authorization;
- (i) endorse any licence or authorization; and
- (j) arrest any person who assaults him in the exercise of his duties under this Decree.

(2) Where an authorised officer has reasonable grounds to believe an offence against this Decree is being or has been committed, he may without a warrant —

- (a) enter, inspect and search any premises, other than premises used exclusively as a dwelling-house, in which he has reasonable grounds to believe an offence has been or is being committed or fish taken illegally are being stored;
- (b) stop, enter and search and stay in or on any vehicle or aircraft which he reasonably suspects of transporting fish or fish products;
- (c) following hot pursuit in accordance with international law and commenced within the fisheries waters, stop, board and search outside the fisheries waters any foreign vessel which he has reasonable grounds to believe has been used in the commission of such offence and bring such vessel and all persons on board within the fisheries waters;
- (d) take samples of any fish found in any vessel or vehicle inspected or any premises searched under this Decree;
- (e) seize —

- (i) any vessel (including its fishing gear, equipment, stores and cargo), vehicle, fishing gear, nets or other fishing appliances or aircraft which he has reasonable grounds to believe has been or is being used in the commission of such offence or in respect of which the offence has been committed;
 - (ii) any fish or fish products which he has reasonable grounds to believe have been caught in the commission of an offence or are possessed in contravention of this Decree;
 - (iii) any electric shock device, explosive, poison or other noxious substance which he has reason to believe has been used or is possessed in contravention of this Decree;
 - (iv) fish not meeting health standards prescribed under this Decree;
 - (v) any logs, charts or other documents required to be maintained by this Decree or under the terms of any licence or other authorization or which he has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence against this Decree; and
 - (vi) any thing which he has reasonable grounds to believe might be used as evidence in any proceedings under this Decree; and
- (f) arrest any person whom he has reasonable grounds to believe has committed an offence against this Decree.

(3) A written receipt shall be given for any article or thing seized under this section and the grounds for such seizure shall be stated in such receipt.

(4) Any person arrested without a warrant under this section shall be taken to a police station and dealt with in accordance with law.

(5) An authorised officer may, with or without a warrant or

other process —

- (a) execute any warrant or other process issued by any court of competent jurisdiction; and
- (b) exercise any other lawful authority.

Powers of authorised officer beyond limits of fishery waters.

64. Where following hot pursuit in accordance with this Decree, a fishing vessel is pursued beyond the limits of the fishery waters the powers conferred on authorised officers by this Decree shall be exercisable beyond the limits of the fishery waters in accordance with international law.

Requirements for seized vessels, etc.

65. (1) Where any vessel is seized under this Decree —

- (a) the master and crew shall take it to such port as the authorised officer shall designate, being the nearest or most convenient port; and
- (b) the master shall be responsible for the safety of the vessel and each person on board the vessel, including the crew, himself and any authorised officer until the vessel arrives at the designated port.

(2) If the master fails or refuses to take the seized vessel to the designated port then an authorised officer or person called upon to assist him may do so.

(3) If a vessel is taken to port in the circumstances described in subsection (2), no claim whatever may be made against any authorised officer or the Government in respect of any damage, injury, loss or death occurring while the vessel is being so taken, subject to the provisions of this Decree.

(4) When a vessel seized under this Decree arrives in port, the crew or such other person connected with the vessel as may be designated by the Director shall be responsible for the maintenance of the vessel and no claim whatever may be made against the Government in respect of any damage, injury, loss or death occurring while the vessel is in port.

(5) The provisions relating to vessel and master described in

subsections (1) to (4) apply *mutatis mutandis* to vehicles and aircraft seized in accordance with this Decree, and their drivers and pilots respectively.

66. (1) An authorised officer may remove any part or parts from any unlicensed vessel, vehicle or aircraft held in the custody of the Government of Sierra Leone for the purpose of immobilising that vessel, vehicle or aircraft. Removal of parts from seized vehicles.

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

(3) No person shall knowingly possess or arrange to obtain any part or parts removed under subsection (1) or knowingly possess or arrange to obtain or make any replacement or substitute part or parts for those removed under subsection (1) or shall fit or attempt to fit any part or parts or any replacement or substitute part or parts to a vessel, vehicle or aircraft held in the custody of the Government of Sierra Leone.

(4) Any person who contravenes subsection (3) commits an offence and is liable on conviction to a fine of not more than two million leones or to a term of imprisonment not exceeding six months or to both.

67. (1) The Director may designate in writing persons to act as inspectors. Inspectors and observers.

(2) Inspectors shall exercise such functions as the Director may require, including scientific, compliance, and monitoring functions.

(3) The Director may appoint in writing persons to act as observers in respect of any vessel issued with a valid fishing licence or authorization pursuant to this Decree.

(4) Observers shall exercise such functions as the Director may require, including scientific and monitoring functions, which shall include—

- (a) collecting catch and effort data;
- (b) taking reasonable samples for scientific purposes; and
- (c) reporting violations of this Decree.

68. (1) Any person on board any vessel with a valid licence or authorization pursuant to this Decree shall permit any inspector or observer to board and remain on such vessel for the purposes of carrying out his duties and functions. Duties to inspectors and observers.

(2) The operator and each member of the crew of such vessel shall allow and assist any inspector or observer to —

- (a) board such vessel for scientific, compliance, monitoring and other functions, at such time and place as the Director may require;
- (b) have full access to and the use of facilities and equipment on board the vessel which the inspector may determine is necessary to carry out his duties, including —
 - (i) full access to the bridge, navigation charts, fish on board and areas which may be used to hold, process, weigh and store fish;
 - (ii) full access to the vessel's records, including its logbooks and documentation for the purposes of records inspection and copying;
 - (iii) full access to fishing gear on board; and
 - (iv) reasonable access to navigation equipment and radios;
- (c) take and remove from the vessel reasonable samples for the purposes of scientific investigation, and other relevant information;
- (d) take photographs of the fishing operations, including fish, fishing gear and equipment and charts and records, and remove from the vessel such photographs or film as he may have taken or used on board the vessel;
- (e) send or receive messages by means of the vessel's communications equipment;
- (f) carry out all duties safely; and
- (g) disembark at such time and place as may be requested or in accordance with an applicable access arrangement.

(3) The operator of a vessel shall provide the inspector or observer, and any authorised officer forced by circumstances to stay on board the vessel for a prolonged period of time, while on board the vessel, at no expense, with food, accommodation and medical facilities equivalent to that accorded to officers.

(4) In addition to the requirements of subsection (3), the operator may be required to pay in full the following costs of the inspector or observer —

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

(5) Any operator of any vessel with a valid licence or authorization issued under this Decree shall allow and assist any inspector or observer to have full access to any place within Sierra Leone where fish taken in the fishery waters is unloaded or transhipped, to remove reasonable samples for scientific purposes and to gather any information relating to fisheries in the fishery waters.

(6) Any person who contravenes the provisions of this section is guilty of an offence and shall be liable to a fine of not more than three million leones or in relation to a foreign fishing vessel the leone equivalent of fifty thousand United States dollars or to imprisonment for a term not exceeding two years or to both.

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

Duties to authorised officers, inspectors and observers.

(2) The master and each crew member of a vessel, driver of a vehicle or pilot and crew of an aircraft shall take all reasonable measures to ensure the safety of an authorised officer, inspector or observer as appropriate in the performance of his duties.

(3) Any person who —

- (a) contravenes subsection (1) or (2);

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

commits an offence and is liable on conviction to a fine of not more than two million leones or in respect of a foreign fishing vessel the leone equivalent of fifty thousand United States dollars or to imprisonment for a term not exceeding two years or to both.

(4) For the purposes of subsection (3), any person who does not allow any authorised officer, or any person acting under his orders or in his aid, or an inspector or observer to exercise any of the powers conferred on such person by this Decree shall be deemed to be obstructing that officer, person, inspector or observer.

(5) Every person who, being a master, owner or agent of a fishing vessel which transports an authorised officer, inspector or observer outside the fishery waters and causes him to disembark outside the territory or jurisdiction of Sierra Leone, commits an offence and shall be liable on conviction to a fine of not more than the leone equivalent of fifty thousand United States dollars in addition to all costs of repatriation including board and lodging while out of Sierra Leone and direct transportation to Sierra Leone.

70. (1) An authorised officer, inspector or observer, when exercising any of the powers conferred by this Decree, shall on request produce identification to show that he or she is an authorised officer, inspector or observer under this Decree.

Identification of authorised officers, inspectors and observers.

71. (1) Any person who does any act in pursuance or intended pursuance of the functions conferred on him by or under this Decree shall not be subject to any civil or criminal liability in respect of such act, whether on the grounds of want of jurisdiction, mistake of law or fact, or on any other ground, unless he acted, or omitted to act, in bad faith without reasonable cause.

Protection of authorised officers, inspectors and observers.

(2) The Government shall arrange for full insurance coverage for all authorised officers, inspectors and observers for the duration of their sea duty.

Part X – SALE, RELEASE AND FORFEITURE OF RETAINED PROPERTY

72. (1) The Court may, on application order the release of any fishing vessel (together with its fishing gear, equipment, stores and cargo), vehicle, aircraft or other items seized under this Decree on receipt of such bond or other form of security as it may determine.

Release of seized goods.

(2) In determining the value of the bond or other form of security, the Court shall have regard to the aggregate amount of the value of the property to be released, an estimated total fine or other penalty provided for the offences charged or likely to be charged and the costs the prosecution would be likely to recover if a conviction were entered, and may set the value at such aggregate amount.

(3) Notwithstanding the provisions of subsection (2), the amount determined by the Court under this section shall not be less than the fair market value of the property to be released or the aggregate minimum fine or penalty for each offence charged, whichever is greater.

(4) Where any vessel, vehicle, aircraft or other item seized is released upon the lodging of a bond or other form of security under subsection (1), the court shall in the order state separately the sums which are attributable to the property to be released, the total fine or fines and the likely costs.

(5) The release of any bond or other form of security under this section shall be conditional upon—

- (a) a finding by the Court that the vessel has not been used in the commission of an offence under this Decree; or
- (b) where the Court finds that the vessel has been used in the commission of an offence under this Decree—
 - (i) payment in full within thirty days of the judgment of the Court of any fine imposed by the Court and any costs ordered to be paid by the Court; and
 - (ii) where the Court so orders, delivery to the Court of the vessel, including its fishing gear, furniture, appurtenances, stores and cargo, and of any fish ordered to be forfeited without any impairment of their value, or payment of the monetary value thereof as determined by the Court.

(6) Nothing in subsection (1) shall require a Court to release any vessel, vehicle, aircraft or other item if it might be required as an exhibit in court proceedings or is reasonably required for any further investigation of offences against this Decree.

Sale of
perishable
goods seized.

73. (1) Any fish or other item of a perishable nature seized under this Decree or the proceeds of sale of such fish or item shall be held and dealt with in accordance with the provisions of this Decree.

(2) The Director may direct the sale of the fish or other items referred to in subsection (1), and the proceeds of the sale shall be deposited with the court pending the outcome of any court proceedings under this Decree; except that where, after making all reasonable efforts, such fish or other items are unable to be sold, or where they are unfit for sale, the Director may dispose of them in such other manner as he thinks fit.

(3) The Director shall notify the owner or apparent owner of the perishable goods seized of the sale, and such owner or his nominee may be present at the sale.

74. Any vessel, vehicle, aircraft or other item seized under this Decree or any bond or other security or net proceeds of any sale in respect thereof shall be held by the Government pending the outcome of any legal proceedings under this Decree or until it is decided not to lay an information or charge, and any penalties imposed under this Decree have been fully paid. Holding of seized goods

75. (1) Where any person is convicted of an offence against this Decree, the Court, in addition to any other penalty— Court's power of forfeiture.

(a) may order that any fishing vessel (together with its fishing gear, equipment, stores and cargo) and any vehicle or aircraft used or involved in the commission of that offence be forfeited to the State;

(b) shall order, where any person is convicted of an offence relating to any unlicensed activity under this Decree, that any fishing vessel (together with its fishing gear, equipment, stores and cargo) and any vehicle or aircraft used or involved in the commission of that offence be forfeited to the State.

(2) Where any vessel, vehicle, aircraft or other items seized under this Decree, or any bond, security or net proceeds of sale in respect thereof is not forfeited or applied in the discharge of any fine, order for costs or penalty imposed under this decree, it shall be made available for collection by the registered owner or his nominee or, in the absence of such persons, the person who appears entitled to it.

(3) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security an order for forfeiture shall, unless the court for special reasons fixes a smaller sum, operate as an order for forfeiture of the bond or security.

(4) Where any vessel, vehicle, aircraft or other items have been released upon the lodging of a bond or security, the Court may order any convicted defendant and the owner of the vessel, vehicle, aircraft or other item concerned, whether or not he is a defendant, to pay the

difference between the bond or amount lodged in respect of the forfeited property and the aggregate value of the forfeited property.

Application
of bond, etc.

76. Any bond, security or net proceeds of sale held in respect of any vessel, vehicle or aircraft or other item shall be applied as follows and in this order—

- (a) the discharge of any forfeiture ordered under this Decree;
- (b) the payment of all fines or penalties for offences against this Decree or penalties imposed under this Decree arising out of the use of or in connection with the vessel, vehicle, aircraft or other item;
- (c) the discharge of all orders for costs in proceedings under this Decree arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and
- (d) return as provided in this Decree.

Removal of
seized
goods.

77. Where any vessel, vehicle, aircraft or other item held or forfeited under this Decree has been unlawfully removed from the custody of the Government it is liable to seizure at any time within the jurisdiction of Sierra Leone.

Disposal of
forfeited
goods.

78. (1) Any vessel, vehicle, aircraft or other item ordered to be forfeited under this Decree may, at the expiry of the time limited for appeal and if no appeal is lodged, be disposed of in such manner as the Director may decide.

(2) Any vessel, vehicle, aircraft or other item seized under this Decree but not forfeited in any legal proceedings may be held by the Government until all fines, orders for costs and penalties imposed under this Decree have been paid and failing payment within the time allowed be sold and the balance of the proceeds returned in accordance with this Decree after deduction of all fines, orders for costs, penalties imposed under this Decree and costs of sale.

(3) The proceeds of sale of all forfeited items shall be deposited into the MCS Unit Fund.

79. The Government shall take or arrange for reasonable care of any item in its custody pursuant to this Decree, but shall not be liable to any person for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other item while in the custody of the Government under this decree, subject to the provisions of this Decree.

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

80. Any person who removes any vessel, vehicle, aircraft or other item held under this Decree and which is in the custody of the Government commits an offence whether or not he knew the vessel, vehicle, aircraft or other item was held in the custody of the Government and is liable on conviction to a fine not exceeding three million leones or to a term of imprisonment not exceeding two years or to both.

Removal of items in custody.

PART XI — JURISDICTION AND EVIDENCE

81. (1) Any act or omission in contravention of any of the provisions of this Decree committed —

Jurisdiction of the Court.

- (a) by any person within the fishery waters;
- (b) outside the fishery waters by any Sierra Leone citizen or person ordinarily resident in Sierra Leone; or
- (c) by any person on board any local fishing vessel;

shall be dealt with and judicial proceedings taken as if such act or omission had taken place in Sierra Leone within the local limits of the jurisdiction of the High Court.

(2) Where an authorised officer is exercising any powers conferred on him outside the fishery waters in accordance with this Decree, any act or omission of any person in contravention of any of the provisions of this Decree, shall be deemed to have been committed within the fishery waters.

(3) Notwithstanding any provision of the Criminal Procedure Act, an information or charge in respect of any offence against this Decree may be laid at any time within one year of the commission of the offence.

Act No. 32 of 1965.

82. (1) Subject to subsection (4) the Director may where he is satisfied that any person has committed any offence against this Decree, and where such person has in writing admitted to having committed such offence and expressed willingness that the offence be so dealt with, compound such offence by accepting on behalf of the Government from

Compounding of offence.

such person a sum of money not less than the minimum penalty specified for each offence in addition to the fair market value of any fish caught illegally, and such sum shall forthwith be paid into the MCS Unit Fund.

(2) In compounding any offence, the Director shall take into account any report which may be prepared by the Director of Public Prosecutions as to the details of the offence or offences for which the person or persons would otherwise be charged and the minimum penalty level for each offence.

(3) In addition to the requirements of subsection (1), the Director shall require that any person who has committed an offence against this Decree in the past shall be liable to pay not less than the penalty in addition to 10% for each offence previously committed.

(4) On compounding an offence under this section, the Director may order the release of any article seized under this Decree or the proceeds of sale of such article on such conditions as he may determine, but shall not order such release unless all penalties have been paid in full.

(5) The compounding of an offence under this section shall be valid upon the payment of such fine or penalty as may be determined by the Director, and notified in writing upon payment, under the signature of both parties, to the appropriate Magistrate Court.

(6) The Director's decision to compound an offence shall be null and void if the full amount of the penalty is not deposited in the MCS Unit Fund within thirty days of such decision, and the matter shall revert to a court of competent jurisdiction.

(7) In any proceedings brought against any person for an offence against this Decree or any regulation made under this Decree, it shall be a defence if such person proves that the offence with which he is charged has been compounded under this section.

(8) The Director may order that any fishing gear or other appliance used for poaching connected with the vessel be confiscated, but shall not impose a term of imprisonment in compounding an offence.

(9) Any person aggrieved by a decision of the Director under this section may appeal to the High Court within thirty days of the Director's decision.

Certificate
evidence.

83. The Director or any person designated in writing by him may give a certificate stating that —

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- (a) a specified vessel was or was not on a specified date or dates a local vessel or a foreign fishing vessel;
 - (b) a specified vessel or person was or was not on a specified date or dates the holder of any specified licence, authorization or certificate of registration;
 - (c) an appended document is a true copy of the licence, authorization or certificate of registration for a specified vessel or persons and that specified conditions were attached to such document;
 - (d) a particular location or area of water was on a specified date or dates within the fishery waters, or within a closed, limited, restricted or in any other way controlled area of the fishery waters, or an area of the fishery waters subject to specified conditions;
 - (e) an appended chart shows the boundaries on a specified date or dates of the fishery waters, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;
 - (f) a particular item or piece of equipment is fishing gear;
 - (g) the cause and manner of death of or injury to any fish;
 - (h) an appended document is a true copy of an access arrangement or an access or related agreement;
 - (i) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;

- (j) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel.

Validity and procedure for certificate.

84. (1) Unless the contrary is proved, a document purporting to be a certificate given under section 83 shall be deemed to be such a certificate and to have been duly given.

(2) Where a certificate issued under section 83 is served upon a defendant seven or more days before its production in court in any proceedings under this Decree, the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(3) Where a certificate issued under section 83 is served upon a defendant fourteen or more days before its production in court and the defendant does not, within seven days of the date of service, serve notice of objection in writing upon the prosecutor, then the certificate shall, unless the court finds the defendant is unduly prejudiced by any failure to object, be conclusive proof of all the facts averred in it.

(4) Where any objection is notified under subsection (3) the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(5) Any certificate issued under section 83 shall be titled "Certificate made under section 83, Fisheries Management and Development Decree" and no such certificate may be used as conclusive proof of the facts averred therein unless it is served with a copy of sections 83 and 84 of this Decree.

(6) Any omission from or mistake made in any certificate issued under section 83 shall not render it invalid unless the Court considers such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced by it.

(7) Where in any proceedings a certificate made under section 83 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 therein unless the contrary is proved.

Certificate as to the location of a vessel.

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

(2) An authorised officer shall in any certificate made in subsection (1) state —

- (a) his name, address, official position, country of appointment and provision under which he is appointed;
- (b) the name and, if known, call sign of the fishing vessel concerned;
- (c) the date and time or period of time the vessel was in the place or area;
- (d) the place or area in which it is alleged the vessel was located;
- (e) the position fixing instruments used to fix the place or area stated in paragraph (d) and their accuracy within specified limits;
- (f) a declaration that he checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly; and
- (g) if a position fixing instrument which is not judicially noticed as notoriously accurate or a designated machine is used, a declaration that he checked the instrument as soon as possible after the time concerned against such instrument.

(3) Section 84 shall apply to a certificate given under this section as if it had been a certificate given under section 83 and any reference therein to section 83 shall be read as a reference to this section.

(4) For the purposes of this section "authorised officer" shall include surveillance officers and those charged with similar responsibilities in other countries.

86. (1) The Secretary of State may by notice in the *Gazette* designate any machine or class of machines as a designated machine or machines. Designated machines.

(2) The readings of designated machines shall be admissible as evidence of the facts they aver if —

- (a) the readings were made by a competent operator; and
- (b) the machine was checked for correct working a reasonable time before and after the readings it is sought to adduce in evidence were made and the machine appeared to be working correctly.

(3) A designated machine, when checked for correct working and read by a competent operator, shall, unless the contrary is proved, be presumed to give accurate readings within the manufacturer's specified limits.

(4) The readings of designated machines may be made from a printout or as observed from a visual display unit.

(5) The machines referred to in subsection (1) must be capable either wholly or partially in themselves of producing the readings concerned and not merely be receivers of information or data.

Photographic
evidence.

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

(2) The presumption set out in subsection (1) shall arise only if—

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

(3) Any authorised officer or inspector who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating —

- (a) his name, address, official position, country of appointment and provision under which he 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 checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with subsection (2) (b) and that they all 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;
- (f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Section 84 shall apply to a certificate given under this section as if it had been a certificate given under section 83 and any reference therein to section 83 shall be read as a reference to this section.

88. (1) The Secretary of State may by notice in the Gazette designate any device or machine or class of devices or machines as an observer device. Observer devices.

(2) "Observer device" means any device or machine placed on a fishing vessel in accordance with this Decree, as a condition of its licence or access agreement or related agreement, which transmits, whether in conjunction with other machines elsewhere or not, information or data concerning the position and fishing activities of the vessel.

(3) The information or data concerning the vessel's position and fishing activities referred to in subsection (2) may be fed or input manually into the observer device or automatically from machines aboard the vessel or ascertained by the use of the observer device transmissions in conjunction with other machines.

(4) Any machine —

- (a) aboard a vessel automatically feeding or inputting position fixing information or data into an observer device shall be judicially recognised as notoriously accurate or a designated machine;
- (b) used in conjunction with an observer device for the purpose of ascertaining or obtaining information or data need not be judicially noticed as notoriously accurate or a designated machine.

(5) All information or data obtained or ascertained by the use of an observer 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 fishing vessel;

and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

(6) The presumption in subsection (5) shall apply whether or not the information was stored before or after any transmission or transfer.

(7) Any person may give a certificate stating —

- (a) his name, address and official position;
- (b) that he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from an observer device;
- (c) the date and time the information was obtained or ascertained from the observer device and the details thereof;

- (d) the name and call sign of the vessel on which the observer device is or was located as known to him or as ascertained from any official register, record or other document; and
- (e) a declaration that there appeared to be no malfunction in the observer device, its transmissions or other machines used in obtaining or ascertaining the information.

(8) Section 84 shall apply to a certificate given under this section as if it had been a certificate given under section 83 and any reference therein to section 83 shall be read as a reference to this section.

(9) Any person who intentionally or recklessly destroys, damages, renders inoperative or otherwise interferes with an observer device or machine aboard a vessel which automatically feeds or inputs information or data into an observer device, or who intentionally feeds or inputs information or data into an observer device which is not officially required or is meaningless commits an offence and is liable on conviction to a fine of not less than three million leones or to imprisonment for a term not exceeding two years or to both.

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

Presump-
tions.

(2) Where, in any legal proceedings under this Decree, the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place in which the event took place, unless the contrary is proved.

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

(4) Where in any legal proceedings relating to an offence under this Decree —

- (a) an authorised officer gives evidence of reasonable

grounds to believe that any fish to which the charge relates were taken in a specified area of the fishery waters;

- (b) the Court considers that, having regard to that evidence the grounds are reasonable;

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

(5) Where in any legal proceedings for an offence under this Decree —

- (a) an authorised officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken by the use of driftnets;
- (b) the Court considers that, having regard to the evidence the grounds are reasonable;

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

(6) Where any information is given in respect of a fishing vessel under this Decree or an access arrangement or access agreement or related agreement in relation to any fishing activity of a foreign fishing vessel, it shall be presumed to have been given by the master, owner and charterer of the vessel concerned, unless it is proved it was not given by any of them.

(7) Any entry in writing or other mark in or on any log, chart or other document required to be maintained under this Decree or used to record the activities of a foreign fishing vessel shall be deemed to be that of the master, owner and charterer of the vessel.

Onus of proof.

90. (1) Where, in any proceedings under this Decree, a person is charged with having committed an offence involving an act for which a licence, authorization or other permission is required, the onus shall be on that person to prove that at the relevant time the requisite licence or authorization or other permission was held.

(2) Where a person is charged with the contravention of section 21(1), the onus shall be on that person to prove that his entry into the fishery waters was for a purpose recognised by international law.

(3) Where a person is charged with the contravention of section 97, the onus shall be on that person to prove that the information given was true, complete and correct.

91. Any person who destroys or abandons any fish, fishing gear, net or other fishing appliance, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid their seizure or the detection of an offence against this Decree is guilty of an offence and is liable on conviction to a fine of not more than three million leones or the dollar equivalent thereof or to a term of imprisonment not exceeding two years or to both.

Destruction of evidence.

PART XII – LEGAL PROCEEDINGS

92. (1) Where an offence against this Decree has been committed by any person on board or employed on a fishing vessel, the master of the vessel shall also be guilty of the offence

Liability of master and officers of companies.

(2) Where any offence against this Decree has been committed by a company or by any member of a partnership, firm or business, every Director, Manager, Secretary or other officer of that Company directly connected with the activity or any other member of the partnership or other person concerned with the management of such firm or business shall be liable for such offence unless he proves to the satisfaction of the Court that —

(a) he used due diligence to secure compliance with the Decree; and

(b) such offence was committed without his knowledge, consent or connivance.

93. Each day of a continuing contravention of any provision of this Decree or of any applicable licence shall constitute a separate offence.

Continuing offence.

94. (1) Where a person has been convicted of an offence against this Decree, the Court may in addition to any other penalty or forfeiture order that for a period not exceeding five years he be banned from going on or remaining aboard any fishing vessel in the fishery waters.

Banning order.

(2) Any person who contravenes an order made under subsection (1) or the master of a fishing vessel who has aboard a person he knows is banned under subsection (1) commits an offence and is liable

on conviction to a fine of not less than three million leones or in respect of a foreign fishing vessel the leone equivalent of one hundred thousand United States dollars or to a term of imprisonment not exceeding two years or to both.

Fines and other pecuniary penalties.

95. (1) Where the amount of a fine or other pecuniary penalty is shown in dollars in this Decree, it is to be paid in United States dollars.

(2) An index for fines shown in leones may be prescribed to account for currency fluctuations and any change from its real value on the date this Decree comes into force.

Civil proceedings.

96. All pecuniary penalties not specifically designated and all forfeitures incurred under or imposed by this Decree, and the liability to forfeiture of any article seized under the authority thereof, and all rents, charges, expenses and duties and all other sums of money payable under this Decree may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a Magistrate's Court, which is hereby invested with the necessary jurisdiction for such purpose, in the name of the Director as the nominal plaintiff; and all such proceedings shall be deemed to be civil proceedings, and except as otherwise provided, the ordinary civil procedure of Sierra Leone shall apply. 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.

PART XIII – MISCELLANEOUS

Information must be true, complete and correct.

97. (1) Any information required to be recorded, notified, communicated or reported pursuant to any requirement of this Decree shall be true, complete and correct.

(2) Any change of circumstances which has the effect of rendering any such information false, incomplete or misleading shall be notified to the appropriate authority immediately.

(3) Any person who contravenes this section commits an offence and is liable on conviction to a fine of not more than five million leones or to a term of imprisonment not exceeding two years or to both.

Wilful damage to fishing vessel, gear, etc.

98. Any person who wilfully damages or destroys any fishing vessel, gear or other fishing appliance belonging to another person shall be guilty of an offence and is liable on conviction to a fine of not more than five million leones or to a term of imprisonment not exceeding two years or to both.

99. (1) The Director may, after application in such form as may be prescribed, issue to any person a licence to operate a fish processing establishment upon payment of such fees and subject to such conditions as may from time to time be prescribed.

Fish
processing
establish-
ments.

(2) The Director shall, in considering an application for a licence under this section and any conditions to be attached, take into account the results of—

- (a) consultations with other affected Government departments; and
- (b) an evaluation of all relevant factors, including those relating to fisheries, the environment, health and industry.

(3) Any licence issued under this section shall be subject to the following conditions —

- (a) the establishment shall be maintained and operated in a safe, clean and sanitary manner;
- (b) accurate records shall be maintained relating to the operation of the establishment, including records of quantity of fish received and processed, and such records shall be open for inspection by authorised officers;
- (c) such returns concerning the operations of the establishment shall be made to the Director as he may require from time to time;
- (d) such other conditions as may be prescribed or endorsed on the licence.

(4) The Director may deny the application for, suspend or cancel a licence to operate a fish processing establishment in accordance with this Decree and on any grounds which may be prescribed.

(5) Any person who operates, or being the owner allows to be operated, a fish processing establishment, except under a valid licence issued under this section and pursuant to the conditions of that licence,

commits an offence and is liable on conviction to a fine of not more than five million leones or to imprisonment for a term not exceeding five years or to both.

Import and export of fish or fish products for commercial purposes.

100. (1) Any person who imports or exports fish or fish products for commercial purposes shall furnish the Director returns in respect of the species, quantity and value of the fish within one month of such import or export, in such form and detail as the Director may require.

(2) No person shall export fish or fish products from Sierra Leone without obtaining a Fish Health Certificate from the Director.

(3) The Fish Health Certificate shall be issued in such form and for such fee as may be prescribed.

(4) Any person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine of not more than ten million leones or to a term of imprisonment not exceeding two years or to both.

Transshipment.

101. (1) No motorised fishing vessel shall be used for transshipment in the fishery waters without the supervision of an authorised officer or such other arrangement as may be approved in advance by the Director.

(2) The master, owner and charterer of a vessel used in contravention of subsection (1) commits an offence and shall on conviction be liable to a fine of not more than ten million leones in respect of a local vessel and the leone equivalent of five hundred thousand United States dollars in respect of a foreign vessel; in addition to the fine, all the fish and fish products on the vessel shall be confiscated.

Seaworthiness.

102. (1) All fishing vessels must be sound and seaworthy, and any engine on a motorised fishing vessel shall be maintained in serviceable and good condition at all times.

(2) All fishing vessels shall be subject to inspection and survey by a surveyor at such intervals as may be prescribed.

(3) The master, owner and charterer of a vessel whose seaworthiness does not comply with this section commits an offence and is liable on conviction to a fine of not more than two million leones or in relation to a foreign fishing vessel the leone equivalent of twenty thousand thousand United States dollars or to imprisonment for a term not exceeding eighteen months or to both.

103. (1) Each canoe support vessel must be issued a licence by the Director in accordance with this Decree. Operations of canoe support vessel.

(2) Each canoe fishing vessel operating with a canoe support vessel shall carry on board a permit issued by the Director restricting it to service or deposit of its catch only to the support vessel whose licence number shall also be written on such canoe support vessel's permit.

(3) Each canoe support vessel shall carry a maximum of twenty canoes for the purpose of fishing and shall be licenced as such.

(4) Each canoe operating with a canoe support vessel shall bear the same markings as the canoe support vessel with which it is operating.

(5) The master, owner and charterer of any canoe support vessel or a canoe operating with it who contravenes any of the provisions of this section commits an offence and is liable on conviction to a fine of not more than five hundred thousand leones in respect of a local fishing vessel and \$20,000 for a foreign fishing vessel or imprisonment for a term not exceeding eighteen months or to both. In addition to the fine, the catch in all the canoes and the canoe support vessel shall be forfeited.

104. The Director, with the approval of the Secretary of State, may in writing for the purposes of research or scientific investigation exempt any vessel or person from all or any of the provisions of this Decree and, in making such exemption, impose such conditions as he may think fit. Research vessels.

105. (1) For the purposes of this Decree, a local fishing vessel shall mean any fishing vessel wholly owned and controlled by — Local fishing vessels.

- (a) citizens of Sierra Leone; or
- (b) any company, association or body of persons corporate or incorporate established under the laws of Sierra Leone —
 - (i) in which more than half the members are citizens; or
 - (ii) in the case of companies having a share capital in which at least fifty-one percent of the shares are held by citizens;

but does not include a vessel that meets the ownership requirements of

paragraph (a) or (b), but which in fact is directly or indirectly owned or controlled in any way whatsoever by a non-citizen or is otherwise deemed not to be a local fishing vessel under this Decree.

(2) A fishing vessel shall be deemed to be directly or indirectly controlled by a non-citizen and therefore not a local fishing vessel, if —

- (a) in the case of a vessel wholly owned by any company, association or body of persons, corporate or incorporate, established under the laws of Sierra Leone —
 - (i) less than fifty-one percent of the members are citizens of Sierra Leone, resident and domiciled in Sierra Leone;
 - (ii) in the case of companies having a share capital, less than fifty-one percent of the shares are held by citizens of Sierra Leone, or the head office is not in Sierra Leone, or the dividend income is not remitted to Sierra Leone, or the manager or managers, chairman of the board of directors or the supervisory board and the majority of the members of such boards are not citizens of Sierra Leone resident and domiciled in Sierra Leone;
- (b) less than forty-five percent of the crew, masters and officers included, are citizens of Sierra Leone, resident and domiciled in Sierra Leone.

(3) A fishing vessel is deemed not to be a local fishing vessel if it is registered in a country other than Sierra Leone instead of or in addition to being registered in Sierra Leone.

Fines.

106. All fines in this Decree are in United States dollars but may be paid in leones, except in respect of fines expressly set in respect of foreign fishing vessels which shall be paid in United States dollars.

PART XIV – REGULATIONS

Regulations.

107. (1) The Secretary of State may make regulations not inconsistent with this Decree for the implementation of its purposes and provisions and for its administration.

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

- (a) measures for the conservation, management, development, licensing and regulation of fisheries or any particular fishery, including a total allowable catch and quota system as appropriate;
- (b) the licensing, authorization or registration in respect of any vessel or class or category of vessels to be used for fishing, related activities or any other purpose pursuant to this Decree, including the form, issuance requirements, documentation required, grounds for denial, terms and conditions and fees, charges, royalties and other forms of compensation related to such licensing, authorization or registration;
- (c) the licensing, authorization or registration in respect of any fishermen or class of fishermen, fishing gear and other equipment or devices used for fishing;
- (d) the operation of, and condition and procedures to be observed by any fishing vessel while in the fishery waters;
- (e) landing requirements for any vessel or class or category of vessels or licences;
- (f) the catching, loading, landing, handling, transshipping, transporting, possession and disposal of fish,
- (g) the import, export, distribution and marketing of fish and fish products;
- (h) rewards to be paid to any person providing

information on the operations of foreign fishing vessels leading to a conviction of an offence against this Decree;

- (i) the licensing, control and use of fish aggregating devices and the rights to the aggregated fish, and prescribing times and the minimum distances from such devices any vessel may fish around;
- (j) standards and measures for the safety of local fishermen and fishing vessels;
- (k) regulating aquaculture and access to land leased for aquaculture and to the waters superjacent to such land;
- (l) the terms and conditions of the leases for aquaculture;
- (m) the provision of statistical and other information related to fisheries;
- (n) the control, inspection and conditions of operation of fish processing establishments;
- (o) the prevention of marine pollution;
- (p) the implementation of any access arrangement entered into pursuant to this Decree;
- (q) an index to calculate the amounts of any fines shown in Leones in this Decree;
- (r) the procedures to be followed for foreign capital investment and joint venture proposals in fisheries and the conditions to be fulfilled by any such investment;
- (s) standards for the accommodation and facilities

to be granted to inspectors and observers on board fishing vessels;

- (t) reporting requirements for foreign fishing vessels and requirements for the storage of fishing gear;
- (u) licensing vessels used for recreational purposes only;
- (v) offences against the regulations and penalties for such offences; and
- (w) any other matter which is required or authorised to be prescribed.

PART XV – REPEALS AND SAVINGS

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| 108. (1) The following enactments are repealed — | Repeal and savings. |
| (a) The Fisheries Management and Development Act, 1988; | Act No. 4 of 1988. |
| (b) The Fisheries Management and Development (Amendment) Act, 1990; | Act No. 9 of 1990. |
| (c) The Fisheries Management and Development (Amendment) Act, 1992. | Act No. 7 of 1992. |

(2) Notwithstanding the provisions of subsection (1) all regulations, orders, rules and notices made under the repealed enactments shall, unless they are inconsistent with any provision of this Decree or until they are expressly revoked or replaced by any regulation, order rule or notice made under this Decree, remain in force.

MADE and ISSUED this 5th day of December, 1994

CAPTAIN VALENTINE E. M. STRASSER
Chairman,
National Provisional Ruling Council.