

THE FISHERIES ACT, 2011

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

DEPARTMENT OF FISHERIES

3. Director of Fisheries and other staff
4. Functions of Department
5. Honorary fisheries officers
6. Powers of authorised officers
7. Power to carry out tests and to take statistics
8. Release, seizure and destruction
9. Arrest without warrant
10. Obstruction of authorised officer or honorary fisheries officer
11. Immunity
12. General principles of management
13. Fisheries development measures
14. Fisheries management measures

PART III

PROTECTION OF FISH

15. Prohibited methods of fishing
16. Fish processing and storage vessels
17. Importation of fishing gear
18. Power to restrict methods of fishing
19. Restriction on introduction of fish

20. Power to control introduction and spread of fish disease
21. Offences related to fish disease
22. Emergency measures
23. Import of fish or fish product
24. Importation for scientific, educational or research purposes
25. Export of fish or fish product

PART IV

FISHERIES MANAGEMENT AREAS

26. Declaration of fisheries management area
27. Restriction on fishing in fisheries management area
28. Fisheries management plan
29. Fisheries management committee
30. Functions of fisheries management committee
31. Misuse of money of committee
32. Submission of report and minutes
33. Zone and village fisheries management committee

PART V

SPECIAL FISHING AREAS

34. Prescribed areas
35. Special fishing licence

PART VI

COMMERCIAL FISHING

36. Declaration of commercial fishing area
37. Registration of boats
38. Boat identification marks
39. Declaration of fisheries reserves

PART VII

AQUACULTURE

40. Prohibition of engaging in aquaculture without licence
41. Application for licence
42. Aquaculture licence
43. Conditions of aquaculture licence

44. Restriction on transfer of licence
45. Environmental impact assessment
46. Inspection of proposed site for aquaculture
47. Prohibition of interfering with aquaculture facility
48. Restriction on use of chemicals, etc. in aquaculture facility
49. Cancellation and suspension of licence
50. Appeal against suspension or cancellation of licence
51. Aquaculture Development Plan
52. Aquaculture regulations

PART VIII

THE FISHERIES AND AQUACULTURE DEVELOPMENT FUND

53. Establishment of Fisheries and Aquaculture Development Fund
54. Administration of Fund
55. Application of moneys of Fund
56. Statement of income and expenditure

PART IX

GENERAL PROVISIONS

57. Mutual legal assistance
58. Offences committed outside Zambia
59. Extraditable offences
60. General offences
61. General penalty
62. Offences by body corporate or unincorporate body
63. Forfeiture provisions on conviction
64. Cancellation of licence or permit by court order
65. Conduct of prosecution
66. Trespass upon private property
67. Regulations
68. Repeal of Cap. 200

SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 22 of 2011

Date of Assent: 15th April, 2011

An Act to provide for the appointment of the Director of Fisheries and fisheries officers and provide for their powers and functions; promote the sustainable development of fisheries and a precautionary approach in fisheries management, conservation, utilisation and development; establish fisheries management areas and fisheries management committees; provide for the regulation of commercial fishing and aquaculture; establish the Fisheries and Aquaculture Development Fund; repeal and replace the Fisheries Act, 1974; and provide for matters connected with, or incidental to, the foregoing

[18th April, 2011

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Fisheries Act, 2011.

Short title

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

Interpretation

“aquaculture” means the cultivation, propagation or farming of fish, aquatic vegetation, or other living aquatic resources whether from eggs, spawn, spat or seed or by rearing fish lawfully taken from the wild or lawfully imported into the country, or by other similar process;

“Aquaculture Development Plan” means the Plan prepared under section *fifty-one*;

“aquaculture facility” means any equipment, construction, enclosure, place or area, whether on land or in water, in which aquaculture is conducted;

- Act No. 12
of 1998
- “ authorised officer ” means the Director, an officer of the Department of Fisheries authorised by the Director and any other person authorised, in writing, by the Director;
- “ boat ” means any water craft, whether powered or unpowered, used for, or in connection with, commercial fishing, but does not include a canoe;
- “ commercial fishing ” means fishing which is undertaken in a commercial fishing area as a regular or occasional occupation for the supply of fish to any market or industry;
- “ committee ” means a fisheries management committee constituted under section *twenty-nine*;
- “ community resources board ” has the meaning assigned to it in the Zambia Wildlife Act, 1998;
- “ conveyance ” means an aircraft, ship, boat, vessel, train, vehicle, carriage, cart or other conveyance of whatever kind, including the fittings and equipment of the conveyance;
- “ Department ” means the Department of Fisheries;
- “ Director ” means the person appointed as such under section *three*;
- “ disease ” means a deviation from the state of complete physical or social well being of an organism involving a well defined set of symptoms and ichthyology that leads to an impairment of the organism’s normal function;
- “ ecologically sustainable development ” means using, conserving and enhancing the fisheries resources and fish habitats so that—
- (a) the ecological processes on which life depends are maintained; and
- (b) the total quality of life, both now and in the future, can be improved;
- Act No.12
of 2011
- “ Environmental Management Agency ” has the meaning assigned to it in the Environmental Management Act, 2011;
- Act No. 12
of 2011
- “ environmental impact assessment ” has the meaning assigned to it in the Environmental Management Act, 2011;
- “ fish ” means any vertebrate fish alive or dead and any part thereof, whether or not preserved in any form, and includes fin, shell fish, the young and eggs but does not include a genetically modified organism;

-
- “ fish product ” means any product or part thereof, including oil, obtained by fish processing and intended for use as human food, animal feed or raw material ingredient in the manufacture of other commodities of commercial or ornamental value;
- “ fishing ” includes any act directed at or intended for the harvesting, taking, killing or injuring of any fish;
- “ fishing gear ” means any instrument, equipment, net, cork, buoy or other article including any part thereof used for purposes of fish finding, congregating fish or fishing;
- “ fisheries management area ” means any fishery waters or part thereof or any geographical area, whether or not connected to any fishery water, declared to be a fisheries management area under section *twenty-six*;
- “ fisheries management plan ” means a plan for the management and development of a fisheries management area prepared pursuant to section *twenty-eight*;
- “ fishery waters ” means water in any river, stream, watercourse, lake, lagoon, swamp, pond, dam or reservoir, whether natural or man-made, but does not include water in aquaria or ornamental ponds unconnected with any natural water;
- “ Fund ” means the Fisheries and Aquaculture Development Fund established under section *fifty-three*;
- “ game management area ” has the meaning assigned to it in the Zambia Wildlife Act, 1998; Act No. 12 of 1998
- “ genetically modified organisms ” has the meaning assigned to it in the Biosafety Act, 2007 Act No. 7 of 2007
- “ honorary fisheries officer ” means any person appointed as such under section *five*;
- “ Local Forest ” has the meaning assigned to it in the Forests Act; Cap. 199
- “ National Forest ” has the meaning assigned to it in the Forests Act; Cap. 199
- “ National Park ” has the meaning assigned to it in the Zambia Wildlife Act, 1998; Act No. 12 of 1998
- “ precautionary approach ” means the principle that, if there is a threat of serious or irreversible environmental damage, lack of scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation, or possible environmental degradation, because of the threat;

“ prescribed area ” means such area as may be prescribed by the Minister for the purpose of this Act; and

“ weir ” means any fence, bank or similar obstruction erected in or across water for the purpose of taking fish, obstruction of free fish movement or migration, and includes any basket traps or similar devices therein.

PART II

DEPARTMENT OF FISHERIES

Director of
Fisheries and
other staff

3. (1) The Public Service Commission shall appoint, as public officers, a Director, a Deputy Director, fisheries officers and such other staff, for the Department within the Ministry responsible for fisheries development, as shall be necessary for the proper administration of this Act.

(2) The Director shall be responsible for the administration of this Act and the exercise of the Department’s functions as provided under this Act.

(3) The Director may, in writing, delegate the exercise of any of the powers and functions conferred upon the Director by this Act to such authorised officers as the Director may think fit.

(4) The Director may, in writing, revoke or vary any delegation made, under subsection (3), of any power included in the delegation instrument.

(5) The Minister may, by statutory order, confer any power and any duties of an authorised officer under this Act, on any public officer or class of public officers.

Functions of
Department

4. (1) The functions of the Department are to—

(a) conserve, manage and develop fishery resources and waters in a sustainable manner;

(b) manage, develop and protect aquaculture, aquatic vegetation and fish habitats;

(c) take such measures as are necessary for the protection of fish stocks from the effects of pollution and from any other effects which are harmful or potentially harmful to fish stocks;

(d) regulate the conduct of fishing operations including aquaculture and operations ancillary thereto;

-
- (e) manage, control and eliminate diseased fisheries resources;
 - (f) take appropriate measures, in consultation with the Environmental Management Agency, for the safeguard against extinction of protected species;
 - (g) issue, vary, suspend and revoke any permits and licences for fishing, equipment used for fishing, aquaculture and other activities for which permits or licences are required under this Act;
 - (h) ensure the fair access to fisheries resources for commercial, recreational and indigenous use;
 - (i) conduct and support fisheries research and development;
 - (j) allocate money from the Fund;
 - (k) create an environment of cooperation and consultation with other public institutions so as to enable the other public institutions to perform their functions that impact on this Act, within the context of this Act and the ambit of their respective powers and functions;
 - (l) liaise or interface with similar organs in other countries or international institutions dealing with fisheries conservation and management; and
 - (m) perform any other functions as are necessary or incidental to the carrying out of its functions under this Act.
- (2) The Director shall, in carrying out the functions of the Department, as specified under subsection (1)—
- (a) promote a community-based natural resource management approach in respect of fisheries management;
 - (b) facilitate and simplify the issuance of licences and permits to those who are entitled to them;
 - (c) create a climate of cooperation with communities and organs of civil society so as to encourage them to cooperate with the Department in the application and implementation of this Act;
 - (d) ensure the uniform application of this Act;
 - (e) ensure the efficient and effective operation of the Department;

- (f) administer the prescribed fees, fines and other payments that the Department exacts or receives in such a manner as to defray the overall cost of the Department's operations; and
 - (g) conduct any other activity specified under this Act or that is necessary for or conducive to its implementation.
- (3) The functions of the Director are to—
- (a) supervise and control the manner, extent and conditions of producing, harvesting, treating, transporting and selling of fisheries resources;
 - (b) ensure that economic efficiency is taken into account in developing management arrangements for fisheries resources;
 - (c) supply or support fisheries educational programs and codes of practice for fisheries management;
 - (d) examine and advise the Minister on issues affecting fisheries resources and fish habitat;
 - (e) examine and advise the Minister on the administration of this Act and make any recommendations the Director considers appropriate;
 - (f) assess fish stocks and collect statistics including details of catches;
 - (g) maintain a record of fishing boats, their masters, captains, crew and any other person working on them;
 - (h) monitor and control fishing operations; and
 - (i) perform any other functions conferred on the Director under this Act.

Honorary
fisheries
officers

5. (1) The Minister may, in consultation with the Director, by notice in the *Gazette*, on such terms and conditions as the Minister may specify in the notice, appoint any person to be an honorary fisheries officer.

- (2) The appointment of an honorary fisheries officer may be—
- (a) general, so that the honorary fisheries officer is empowered to act in any part of the Republic, including any fishery waters as may be specified in the instrument of appointment; or

(b) limited, so that the honorary fisheries officer is empowered to act in areas of their residence including any fishery waters as may be specified in the instrument of appointment.

(3) Subject to the other provisions of this Act and to the terms of the instrument of appointment, an honorary fisheries officer shall, within the terms of appointment, exercise the functions and perform the duties of an authorised officer.

6. (1) Subject to, and for the purposes of, this Act, an authorised officer may—

Powers of
authorised
officers

- (a) at any reasonable time, enter upon and inspect any land, tent, conveyance, fish processing establishment, aquaculture facility, building or premises where any fish or fish product may be found or processed, or where any traps, weirs, stakes, fences or other contrivances may be found for the purposes of inspection and data collection;
- (b) open and examine any container, conveyance, package or wrapping suspected to contain any fish or fish product, to ensure sanitary compliance;
- (c) inspect any fish or fish product destined for import into or export from Zambia to determine whether the consignment is sanitary compliant;
- (d) inspect and examine any conveyance which the authorised officer has reasonable grounds to believe is transporting any fish or fish product to ensure sanitary compliance;
- (e) require the person in charge of any conveyance entering in Zambia to furnish a list of the names of all persons in the conveyance and such other prescribed information as it is within the power of such person to furnish;
- (f) search any person whom the authorised officer has reasonable grounds to believe is carrying any fish or fish product or carrying out activities contrary to this Act;
- (g) require any person to produce for inspection any fish, fish product, net, trap, line, poison, document, explosive, appliance, article, device or anything in relation to or in connection with which, the authorised officer has reason to believe, an offence has been committed or is likely to be committed;

- (h) seize any fish, fish product, net, trap, line, poison, explosive, appliance, equipment, device or material in connection with which an offence appears to have been committed;
- (i) apply or order the application of measures which are necessary or prescribed for the control or prevention of the spread of a disease;
- (j) destroy or order the destruction at any time of any fish or fish product which is diseased, moved or used contrary to the provisions of this Act;
- (k) order the adoption of measures prescribed to ensure the protection of fish; and
- (l) seize or order the seizure of a conveyance carrying any fish or fish product in contravention of this Act or any other law.

(2) An owner of any land, building or premises or of any conveyance shall afford an authorised officer access thereto and shall give such information and provide such reasonable assistance as the authorised officer may require for the purposes of data collection and carrying out an inspection.

(3) An authorised officer may, in the performance of any functions under this section, be accompanied and assisted by a police officer.

(4) An authorised officer may, in the course of an inspection carried out under this section—

- (a) seize, re-call, destroy, detain, or otherwise dispose of any fish or fish product or order that any such action be taken, at the expense of the owner;
- (b) obtain any sample of any fish or fish product as the authorised officer considers necessary;
- (c) order any person to produce for inspection, or for purposes of obtaining extracts or copies, any book, document or other information concerning any matter relevant to the administration of this Act;
- (d) suspend one or more activities or temporarily, partially or completely close an inspected premises; and
- (e) suspend or withdraw any permit or licence issued under this Act.

(5) Where an authorised officer detains, disposes of or destroys any fish or fish product under subsection (1) or (4), the authorised officer shall, as soon as is practicable, notify in writing, the owner of the fish or fish products of the steps taken and the reasons therefor.

(6) Where—

- (a) at any place within Zambia, any fish, fish product or conveyance is infected or is suspected of being infected with any disease; or
- (b) any fish, fish product or conveyance has been introduced into any place in Zambia without the permit required for such introduction, or having been introduced under a permit is moved or dealt with otherwise than in accordance with such permit;

an authorised officer may make such order as the authorised officer considers necessary for all or any of the following purposes:

- (i) to direct that such fish, fish product or conveyance be seized or detained;
- (ii) to direct that such fish, fish product or conveyance be disposed of or destroyed, as the case may be; or
- (iii) to direct that such fish, fish product or conveyance be dealt with in such manner as is considered necessary to prevent the spread of any disease.

(7) A person who contravenes an order made pursuant to this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(8) Where a person fails or refuses to do anything which that person is required to do under an order made under this section, an authorised officer may do or cause such thing to be done.

(9) The cost of anything which an authorised officer does or causes to be done under subsection (8) shall be recoverable by the Director from the person who failed or refused to comply with the order.

(10) The Government shall not be liable for any loss or damage which occurs to any property during an act of seizure by an authorised officer or whilst the property is detained under this Act unless the authorised officer caused the damage negligently, maliciously or fraudulently.

Power to
carry out
tests and to
take statistics

7. (1) An authorised officer may, for the purposes of this Act—

- (a) take or cause to be taken from any fish or fish product, any sample or specimen;
- (b) take or cause to be taken from a building, place or conveyance, any sample or specimen; and
- (c) apply such other tests as the authorised officer considers necessary.

(2) An authorised officer may, for the purpose of obtaining fish statistics, weigh, measure and check any fish, and any person in charge of the fish shall, on demand being made to that person by an authorised officer produce such fish to the authorised officer for that purpose.

Release,
seizure and
destruction

8. (1) Where an authorised officer reasonably believes that it is not necessary to destroy any fish or fish product seized, the authorised officer shall—

- (a) release the fish or fish product, to its lawful owner; or
- (b) release the fish or fish product, to its lawful owner on conditional payment of any charges incurred, in connection with its impounding or other measures taken by the authorised officer.

(2) An authorised officer shall, at the time of release referred to in subsection (1), by order in writing, require an owner of any fish or fish product, to take measures to eliminate any risk associated with a disease.

Arrest
without
warrant

9. (1) An authorised officer may arrest a person, without warrant, where the authorised officer has reasonable grounds to believe that the person—

- (a) has committed an offence under this Act;
- (b) is about to commit an offence under this Act and there is no other way to prevent the commission of the offence;
or
- (c) is willfully obstructing the authorised officer in the execution of the authorised officer's duties.

(2) An authorised officer who makes an arrest under subsection (1) shall, without undue delay, have the person so arrested brought before a court of competent jurisdiction to be dealt with accordingly.

10. A person who—

- (a) wilfully delays or obstructs an authorised officer or an honorary fisheries officer in the carrying out of their duties;
- (b) knowingly or negligently gives an authorised officer or an honorary fisheries officer false or misleading information orally, in writing or otherwise; or
- (c) impersonates or falsely represents oneself to be an authorised officer, or to be a person acting under an authorised officer's orders;

Obstruction
of authorised
officer or
honorary
fisheries
officer

commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

11. An action shall not lie against an authorised officer or an honorary fisheries officer in respect of any act done by the authorised officer or honorary fisheries officer in good faith and without negligence in the execution of the powers vested in them under this Act.

Immunity

12. In exercising powers under and in relation to this Act, the Minister, Director or persons to whom the Minister or Director, as the case may be, has delegated their responsibilities under this Act, shall have regard to—

General
principles of
management

- (a) the principle that the country's aquatic environment shall be managed as an asset for succeeding generations;
- (b) the need to apply the precautionary approach to the utilisation, management, development and conservation of the fisheries resources and waters taking into account the best scientific evidence available;
- (c) the utilisation of the country's fisheries resources and aquaculture development to achieve a sound ecological balance;
- (d) any relevant obligations under applicable rules of international law or international agreements;
- (e) the need to achieve optimum utilisation and ecologically sustainable development of fisheries resources;
- (f) the need to conserve fisheries living resources for both present and future generations;

- (g) the need to utilise fisheries living resources to achieve economic growth, human resource development, capacity building within fisheries, employment creation and a sound ecological balance;
- (h) the need to protect the ecosystem as a whole, including species which are not targeted for exploitation;
- (i) the need to preserve biodiversity in fishery waters;
- (j) the need to minimise pollution of fishery waters; and
- (k) the need to achieve to the extent practicable a broad and accountable participation in the decision-making processes provided for in this Act.

Fisheries
development
measures

13. The Director shall, in co-operation with other appropriate agencies and other departments of Government, promote the development of fisheries, fish culture and related industries through—

- (a) providing extension and training services;
- (b) conducting research and surveys;
- (c) promoting co-operation among fishermen;
- (d) providing infrastructure facilities; and
- (e) stocking waters with fish and supplying fish for stocking.

Fisheries
management
measures

14. (1) The Minister may, by notice in the *Gazette*, impose any of the following measures:

- (a) closed seasons for designated areas, species of fish or methods of fishing;
- (b) prohibited fishing areas for all or designated species of fish or methods of fishing;
- (c) limitations on the methods or fishing gear, including mesh sizes of nets, that may be used for fishing;
- (d) limitations on the amount, size, age and other characteristics and species or composition of species of fish that may be caught, landed or traded;
- (e) regulate the landing of fish and provide for the management of fish landing areas;
- (f) control the introduction into, or harvesting or removal from any fishery waters of any aquatic plant; and
- (g) any other measures that are necessary for the proper management of fishery.

(2) Where the use of any fishing gear is prohibited in any area, the Minister may, by notice in the *Gazette*, prohibit the possession of the fishing gear in that area.

(3) A person who contravenes the provisions of a notice issued under this section commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

PART III

PROTECTION OF FISH

15. (1) A person shall not—

Prohibited
methods of
fishing

- (a) use, or have in that person's possession, any explosive or firearm for fishing;
- (b) possess, use, attempt or cause to be used for fishing, any trawl net or bottom drag net or other fishing net of similar nature;
- (c) alter or interfere with the natural configuration of the terrain or cause any such alteration or interference in such a manner as to enable the isolation from the main water of any fish in subsidiary water, whether or not such isolation takes place immediately or through the natural rise or fall of the water;
- (d) fish by means of any net towed through the water behind or between boats, or by driving or directing fish towards a stationary net;
- (e) set any net across the width of any river, channel or lagoon, measured from bank to bank;
- (f) permit to be used, use, or attempt to use any poison or other noxious substance for the purpose of killing, stunning, injuring, disabling or catching fish, or in any way rendering fish more easily caught;
- (g) carry or have in that person's possession or control any explosive, firearm, poison, chemical or other noxious substance in circumstances indicating an intention of using such substance for any of the purposes referred to in paragraph (f);
- (h) use any electrical device for fishing or carry or have in that person's possession or control, or have on board any conveyance, an electrical device in circumstances which indicate an intention to use it for fishing;

(i) use equipment for fishing which does not conform to any standard prescribed for that type of fishing equipment, including any net or trap the mesh size of which does not conform to the prescribed minimum mesh size for that type of net or trap either generally or in a prescribed area;

(j) use any weir or fishing equipment which is prohibited under this Act; or

(k) use for fishing, fishing nets that are of a number and size exceeding that which is permitted under this Act.

(2) Any explosive, firearm, poison, chemical or other noxious substance found in or on any person, fishing boat, or fishing equipment in a commercial fishing area shall be presumed, unless the contrary is proved, to be intended for the purposes referred to in subsection (1).

(3) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Fish
processing
and storage
vessels

16. (1) A person shall not permit to be anchored a fish processing and storage vessel which does not conform to the sanitary standards for vessels used for such purposes in any commercial fishing area.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Importation
of fishing
gear

17. (1) A person shall not import, manufacture or trade in any fishing gear or equipment which is prohibited by this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Power to
restrict
methods of
fishing

18. The Minister may, where it appears to the Minister that any method of fishing is likely to prove unduly destructive under any circumstances, by order, in respect of any area, for a period to be stated in such order—

(a) prohibit the use of such method; or

(b) subject the use of such method to such conditions as the Minister may consider appropriate.

19. (1) A person shall not without the written permission of the Director—

Restriction
on
introduction
of fish

- (a) introduce or cause to be introduced into any water any fish of a species not native either to the water into which it is introduced or to other waters naturally connected therewith;
- (b) import into the Republic any live fish;
- (c) stock, cause to be stocked or attempt to stock any fishery waters or any part thereof with live fish;
- (d) translocate, transfer, cause to be translocated or attempt to translocate live fish from one fishery area to another or from one place to another; or
- (e) land fish or attempt to land fish at any site other than at the designated landing site.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.

20. Where at any place within or outside Zambia there exists, or is suspected to exist, any disease which is likely to affect fish in Zambia, the Minister or Director may make such order as the Minister or Director considers necessary for all or any of the following purposes:

Power to
control
introduction
and spread of
fish disease

- (a) to prohibit or prevent the introduction of the disease from such place into Zambia or any part of Zambia;
- (b) to prohibit or regulate the entry and movement of any fish, fish product or conveyance within or out of any part of Zambia named in the order;
- (c) to regulate the quarantine, isolation, disinfection or treatment of any fish, fish product or conveyance in any part of Zambia named in the order;
- (d) to prohibit or regulate the sale of any fish or fish product and control agricultural show grounds, stock markets or sale yards in any area specified in the order; or
- (e) to provide for the establishment of check points on roads and such other areas as may be necessary to control diseases.

- Offences related to fish disease
- 21.** A person who—
- (a) unlawfully communicates a disease to live fisheries resources or fish habitat;
 - (b) unlawfully sells any fish or fish product knowing the fish or fish product is infected with or contains a disease;
 - (c) leaves any fish or fish product in a place knowing the fish or fish product is infected with or contains a disease;
 - (d) unlawfully brings any fish or fish product into the Republic knowing the fish or fish product is infected with or contains a disease;
- commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a period not exceeding five years, or to both.
- Emergency measures
- 22.** The Director may, where an emergency occurs that endangers or may endanger stocks of fish or aquatic life, or any species or class of fish or aquatic life in any fishery or part of a fishery—
- (a) suspend all or any of the fishing in that fishery or any specified part of it;
 - (b) restrict the number of boats fishing in that fishery;
 - (c) restrict the mass of fish which may be taken from that fishery; or
 - (d) specify or order the taking of such measures as may be necessary.
- Import of fish or fish product
- 23.** (1) A person shall not import any fish or fish product without an import permit issued by the Director.
- (2) The Minister may, by statutory instrument, provide for the prohibition, restriction and regulation of the importation of any fish and fish product.
- (3) Without derogating from the generality of subsection (1), the Minister may, by regulation—
- (a) provide for the disinfection or treatment of any imported fish or fish product, or their containers;
 - (b) designate ports of entry, routes and methods of transportation;
 - (c) provide for the detention of any fish or fish product which is imported and the measures to be taken during the detention;

(d) provide for the imposition and recovery of fees for disinfecting or treating any fish or fish product, which is imported; and

(e) provide for the disposal of any imported fish or fish product in respect of which prescribed fees are not paid and of the proceeds resulting from their disposal.

24. The Minister may, in consultation with the Director, authorise the entry of any fish or fish product for scientific or research purposes, subject to such terms and conditions as the Minister may consider necessary.

Importation for scientific, educational or research purposes

25. (1) A person shall not export any fish or fish product without an export permit issued by the Director.

Export of fish or fish product

(2) The Minister may, by statutory instrument, prohibit the export of any fish or fish product from Zambia, or any part of Zambia, in general or to one or more designated countries of destination, unless and until all regulations with regard to their export have been complied with.

(3) The Minister may, by statutory instrument, make regulations for the purposes of regulating and controlling the export of any fish or fish product from Zambia or any part of Zambia and prescribing the fees to be paid.

(4) The Minister shall take into account, in the regulations prescribed under subsections (2) and (3), the requirement to fulfill international treaties and agreements and the requirements of the countries of destination.

PART IV

FISHERIES MANAGEMENT AREAS

26. (1) The Minister may, after consultation with the Minister responsible for environmental protection and management, national heritage conservation and management and wildlife management and with the Director and the local riparian community, by statutory order, declare any area of water to be a fisheries management area for the management and sustainable utilisation of such species of fish as may be specified in the order.

Declaration of fisheries management area

(2) The Minister may, in like manner, define, alter or extend the boundaries of a fisheries management area or order the area to cease to be a fisheries management area.

(3) Where a fisheries management area is in a Local Forest, National Forest or National Park, the exercise or enjoyment of any fishing right or interest in the area shall be consistent with sustainable forest management or wildlife conservation and management, as the case may be.

Restriction
on fishing in
fisheries
management
area

27. Except as otherwise provided by this Act, any person who, without a fishing licence, fishes in any fisheries management area commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Fisheries
management
plan

28. (1) The Director shall, in consultation with a committee appointed under section *twenty-nine*, prepare a fisheries management plan for the conservation and management of fish and the development of the fisheries management area.

(2) A fisheries management plan shall—

- (a) identify the fishery to which it relates and state its characteristics and its current state of exploitation;
- (b) specify the objectives to be achieved in the conservation, management and development of the fisheries management area;
- (c) specify the strategies to be adopted for the effective management and development of the fishery;
- (d) determine fishing quotas, the amount of fish which may be harvested and the number of fishing licences which may be issued in respect of the fishery, in any fishing season;
- (e) identify any possible adverse effects that fishing activities in the fishery may cause to the environment and provide solutions for the management of those effects in accordance with the provisions of the Environmental Management Act, 2011;
- (f) specify the statistical and other data to be submitted by the committee to the Director for purposes of monitoring the management and development of the fishery; and
- (g) where necessary, identify and recommend any international cooperation that may be needed to achieve the management and development objectives of the fishery.

Act No. of
2011

(3) The Director shall, during the preparation of a fisheries management plan, consult as appropriate, with other Government departments and agencies affected by the fisheries management plan.

(4) Where a fisheries management area includes any waters where any fish endemic in the Republic are found, the Director shall, before preparing a fisheries management plan for the area—

(a) consult with any Government or other relevant authority concerned with general conservation and biodiversity matters; and

(b) shall give due regard to any advice given by the authorities referred to in paragraph (a) in relation to the endemic fish.

(5) A fisheries management plan shall be reviewed and revised as necessary.

(6) A fisheries management plan and any revision thereof shall be submitted to the Minister for approval, and shall only enter into force when such approval is given.

29. (1) The Minister may, by statutory instrument, appoint a committee for a fisheries management area declared under section *twenty-six*:

Fisheries
management
committee

Provided that where the fisheries management area is in a game management area, the Minister shall appoint the committee in consultation with the community resources board for that area.

(2) A committee appointed under subsection (1) shall comprise—

(a) six representatives from the local riparian fishing community who shall be elected by the local community;

(b) a representative of the local authority in the fisheries management area;

(c) one representative of the chief:

Provided that where a fisheries management area covers two or more chiefdoms, each chief shall nominate a representative to the committee;

(d) one representative of a non-governmental organisation operating in the fisheries management area;

(e) one representative of the commercial fishing operators in the area;

(f) one representative from the aquaculture industry; and

(g) two other persons.

(3) The Minister shall appoint the Chairperson and Vice-Chairperson of a committee from among the members of the committee.

(4) Subject to the other provisions of this Act, a member of a committee shall hold office for a period of three years and may be re-appointed for one further period of three years.

(5) The office of a member shall become vacant—

(a) if without reasonable excuse that member is absent from three consecutive meetings of the committee of which the member had notice;

(b) upon the member's death;

(c) if the member is adjudged bankrupt;

(d) if the member becomes mentally or physically incapable of performing the duties of a member of the committee;
or

(f) if the member is convicted of an offence under this Act or any other written law and sentenced therefor to imprisonment for a period of six months or more without the option of a fine.

(6) The Minister shall, on such terms and conditions as the Minister may determine, appoint an officer of the Department of Fisheries to be the secretary to a committee.

(7) The Minister may dissolve a committee constituted under subsection (1) if satisfied that the committee—

(a) has mismanaged the natural resources in the fisheries management area; or

(b) has engaged in activities which are inconsistent with their functions.

(8) Where the Minister dissolves a committee under subsection (7), the assets of the committee shall become the property of the State and;

(9) The provisions of the Schedule apply to a committee.

Functions of
fisheries
management
committee

30. (1) The functions of a committee are to promote and develop an integrated approach to the management and sustainable utilisation of natural and fisheries resources in a fisheries management area under its jurisdiction.

(2) Without prejudice to the generality of subsection (1), a committee shall have power to—

- (a) negotiate, in conjunction with the Director, co-management agreements with industrial fishing companies operating in the fisheries management area under its jurisdiction;
- (b) manage the fisheries resources under its jurisdiction, within fishing quotas specified by the fisheries management plan;
- (c) in consultation with the Director, develop and implement management plans which reconcile the various uses of water in the fisheries management area under its jurisdiction;
- (d) cooperate with the Department in the management of the fisheries management area under its jurisdiction;
- (e) facilitate the involvement of non-governmental organisations providing support to fisheries management and conservation efforts in the fisheries management area under its jurisdiction;
- (f) recommend to the Director the measures, plans and programmes required for fisheries development in the fisheries management area under its jurisdiction;
- (g) monitor the development of aquaculture in the fisheries management area under its jurisdiction;
- (h) submit to the Director, on a regular basis, reports on the status of the fisheries management area under its jurisdiction; and
- (i) perform such other functions as the Minister may direct.

(3) A committee shall prepare and implement the fisheries management plan referred to in section *twenty-eight* in accordance with such regulations as the Minister may, by statutory instrument, prescribe.

31. A person who misuses or misappropriates any money belonging to a committee—

- (a) is liable to a surcharge; and
- (b) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding twelve months, or to both.

Misuse of
money of
committee

- Submission of report and minutes
- 32.** A committee shall submit—
- (a) to the Director, minutes of each meeting of the committee; and
 - (b) to the Minister, an annual report of its activities; within two weeks after such minutes or report are adopted by the committee.
- Zone and village fisheries management committee
- 33.** (1) The Director may, under a fisheries management committee, appoint a zone and village fisheries management committee for the purpose of fisheries and aquaculture development in the area.
- (2) The Minister may, by statutory instrument, provide for—
- (a) the composition, functions and procedure of the zone and village fisheries management committees; or
 - (b) any other matters necessary for purposes of the zone and village fisheries management committees.

PART V

SPECIAL FISHING AREAS

- Prescribed areas
- 34.** (1) The Minister may, for the purposes of recreational, subsistence or research fishing, by statutory order, declare any area of water to be a prescribed area and shall in such order specify for which of the purposes the area is so declared.
- (2) The Minister may, in respect of any area designated as a prescribed area under subsection (1), regulate the method of fishing to be used in the prescribed area and may prohibit the use of nets.
- Special fishing licence
- 35.** (1) Notwithstanding the provisions of this Act, the Director may, upon such conditions as the Director may consider necessary, and upon payment of such fee as may be prescribed, grant to any person, or persons collectively, a special fishing licence which shall authorise the holder thereof to fish in any specified area or specified waters for any of the following purposes:
- (a) scientific research or the collection of specimens for aquaria, museums and similar institutions;
 - (b) collecting live fish for stocking specified waters;
 - (c) the supply of food in cases of emergency if no other adequate food supply is available; or
 - (d) experiment subject to the direction of the Director.
- (2) A special fishing licence may authorise the holder to fish by any means or method of fishing subject to such conditions as the Director may consider necessary to impose.

PART VI

COMMERCIAL FISHING

36. (1) The Minister may, by statutory order, declare any area of water to be a commercial fishing area. Declaration of commercial fishing area

(2) The Minister may, in respect of any commercial fishing area declared as such under subsection (1), make regulations—

- (a) prohibiting, restricting or regulating fishing;
- (b) controlling the methods of fishing;
- (c) prescribing that during any period of the year it shall be an offence to fish whether generally or for any particular species of fish;
- (d) prescribing the licences to be held by any person fishing in a commercial fishing area; and
- (e) prescribing the records to be kept, and the information to be provided, by any person fishing in a commercial fishing area.

37. (1) A person shall apply to the Director for the registration of the boat intended to be used by the person for the purpose of commercial fishing in the prescribed manner and form upon payment of a prescribed fee. Registration of boats

(2) A person who fails to register a boat commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

38. (1) A boat registered under the provisions of this Act shall be allocated a number or identification mark corresponding to the number or identification mark entered in the register. Boat identification marks

(2) The number or identification mark of a boat shall be clearly painted on the hull of such boat in such manner as the Minister may prescribe.

39. (1) The Minister may, in consultation with the Director, a committee, a local authority and the chief, by notice in the *Gazette*, declare any area of a commercial fishing area as a fisheries reserve if the Minister considers that special measures are necessary to— Declaration of fisheries reserves

- (a) preserve the aquatic environment;

- (b) protect, preserve or rehabilitate the fish habitat, related ecosystems including wetlands, lakes, lagoons, nursery and spawning areas, which are essential to maintaining the integrity of an ecosystem, species or assemblages of species;
 - (c) promote re-generation of fish stocks; or
 - (d) protect fisheries resources and their environment from destruction, degradation, pollution and any other adverse impacts through human activities that threaten their health and viability.
- (2) A person shall not, in a fisheries reserve declared under subsection (1), without the written permission of the Director—
- (a) engage in any activity for fishing; or
 - (b) dredge or extract any material or discharge or deposit any waste or other polluting matter or in any other way destroy, disturb or interfere with the natural environment of fish and related ecosystems.
- (3) The Minister may, where the sustainable utilisation of fish is threatened, by notice in the *Gazette*, prohibit or limit the number of licences that may be issued in respect of any one or both types of regulated fishing gear either in general or in respect of a particular area or for a specified period.

PART VII

AQUACULTURE

- Prohibition of engaging in aquaculture without licence
- 40.** (1) Subject to section *forty one*, a person shall not engage in aquaculture except in accordance with this Act and under the authority of a licence issued under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.
- Application for licence
- 41.** (1) An application for a licence to engage in aquaculture shall be made to the Director or such other officer designated for that purpose by the Director in the prescribed manner and form and shall be accompanied by a prescribed fee, an environmental impact assessment report prepared pursuant to section *forty-five* and such other information as may be prescribed.

(2) The Director shall, within sixty days of receiving an application, reject the application if the application does not meet the requirements of this Act and shall notify the applicant stating the reasons for the rejection.

(3) An applicant for a licence who is aggrieved by a decision of a Director not to grant the licence under subsection (2) may appeal to the Minister, subject to a further appeal to the High Court within thirty days of receiving the notification.

42. (1) The Director shall, within thirty days of receiving an application for a licence under section *forty-one*, issue a licence, subject to any condition specified under section *forty-three*. Aquaculture licence

(2) Subject to section *forty-three*, a licence issued under this section shall be valid for such period as may be specified therein.

(3) An aquaculture licence confers on the holder thereof exclusive rights to harvest the products of the aquaculture facility named in the licence within the area specified in the licence.

(4) A holder of an aquaculture licence may, at least three months before its expiry, apply for the renewal of the licence.

43. An aquaculture licence may contain conditions— Conditions of aquaculture licence

(a) relating to the siting, design, equipment and materials to be used in the construction of the aquaculture facility;

(b) relating to the control of the species of aquatic life that may be introduced into the aquaculture facility;

(c) intended to promote sanitary conditions in the handling of fish and in the preparation and processing of fisheries and fish products;

(d) to prevent the escape of fish from an aquaculture facility;

(e) to prevent and control the spread of diseases of fish;

(f) to regulate the marketing of fish and fish products of an aquaculture facility;

(g) stipulating measures to be taken to minimise the escape of waste products and the pollution of the water in, or the land surrounding, an aquaculture facility;

(h) regulating the disposal of dead fish or waste from an aquaculture facility operated by the licensee including consents and notifications required in respect thereof;

- (i) respecting the control and monitoring of the water quality in the aquaculture facility;
- (j) prohibiting or controlling the use of any chemical or pharmaceutical preparation, drug or antibiotic, in an aquaculture facility; or
- (k) prescribed by regulations under section *fifty-two*.

Restriction
on transfer
of licence

44. An aquaculture licence shall not be transferred without the prior written approval of the Director:

Provided that the Director may authorise the transfer of a licence on such conditions as the Director may determine.

Environmental
impact
assessment
Act No. of
2011

45. A person who intends to engage in aquaculture shall conduct an environmental impact assessment in accordance with the provisions of the Environmental Management Act, 2011, and prepare a report thereon for the purposes of this Act.

Inspection
of
proposed
site for
aquaculture

46. An authorised officer may inspect any site proposed for the establishment of an aquaculture facility to determine the suitability or otherwise of such site for use as an aquaculture facility upon payment of such inspection fee as the Minister may, by regulations, prescribe.

Prohibition
of
interfering
with
aquaculture
facility

47. (1) A person shall not—

- (a) interfere with or harvest the products of an aquaculture facility without the authority of the licensee;
- (b) place any object in the water of an aquaculture facility, or promote or undertake any activity in a manner so as to obstruct an aquaculture operation being carried out by another person;
- (c) destroy, damage, displace or alter the position of any equipment lawfully deployed in connection with an aquaculture facility; or
- (d) without lawful excuse, cause the release of any product of an aquaculture facility.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

48. (1) A person shall not use any drug, chemical or substance for the treatment of fish diseases or for the enhancement of fish growth in an aquaculture facility or for the disinfection of any equipment used in an aquaculture facility, except a drug, chemical or substance approved by the Director for such purpose in consultation with the Environmental Management Agency.

Restriction on use of chemicals, etc. in aquaculture facility

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

49. (1) The Director may cancel or suspend an aquaculture licence where—

Cancellation and suspension of licence

(a) it is necessary to do so in order to give effect to this Part or any programme specified in a fisheries management plan; or

(b) the licence holder has contravened any provision of this Act or any conditions of the licence.

(2) The Director shall, before suspending or cancelling a licence under this section, notify the licence holder of the intention to suspend or cancel the licence giving reasons for such intention and inviting the licence holder to make representations to the Director within such period as may be specified in the notice.

(3) Where a licence is suspended or cancelled on the grounds specified in paragraph (a) of subsection (1), the fees or such proportion of the fees paid for the licence representing the unexpired period of that licence shall be reimbursed to the licence holder within sixty days of such suspension or cancellation.

50. Any licence holder who is aggrieved by a decision of the Director to suspend or cancel the licence under section *forty-nine* may appeal to the Minister, subject to a further appeal to the High Court, within thirty days of receiving the notification of the suspension or cancellation of the licence.

Appeal against suspension or cancellation of licence

51. (1) The Director shall, in consultation with a committee, prepare an Aquaculture Development Plan for the sustainable development of aquaculture in Zambia, for the approval of the Minister.

Aquaculture Development Plan

(2) The Aquaculture Development Plan shall be for a period of three years and shall be designed to promote the sustainable development of aquaculture in accordance with sound principles of fisheries management.

- (3) The Aquaculture Development Plan shall include—
- (a) a statement of the objectives of the plan and a strategy for achieving those objectives;
 - (b) performance indicators to monitor the extent to which the objectives of the plan are being attained;
 - (c) an evaluation of the implementation of the aquaculture plan that preceded it;
 - (d) a description or identification of any area of water which is suitable for aquaculture and the type of aquaculture for which the area is suitable;
 - (e) a description of suitable methods for undertaking any type of aquaculture;
 - (f) the identification of suitable or unsuitable species of fish for aquaculture; and
 - (g) any other matter concerning aquaculture which the Director considers appropriate.

Aquaculture
regulations

52. The Minister may, by statutory instrument, make regulations to—

- (a) prescribe the forms to be used for an application for an aquaculture licence under this Part;
- (b) prescribe the fees to be paid by an applicant for a licence under this Part;
- (c) provide for the control, management and improvement of any aquaculture facility;
- (d) prescribe matters to be considered in determining applications under this Part;
- (e) prescribe the duration and other conditions of an aquaculture licence; and
- (f) make or give any direction generally for the better carrying out of the purposes of this Part.

PART VIII

THE FISHERIES AND AQUACULTURE DEVELOPMENT FUND

- 53.** (1) There is hereby established a Fisheries and Aquaculture Development Fund. Establishment of Fisheries and Aquaculture Development Fund
- (2) The Fund shall consist of —
- (a) such monies as may be appropriated by Parliament for the purposes of the Fund;
- (b) fifty percent of the monies collected from fishing and aquaculture licences and other fees payable under this Act; and
- (c) such moneys as may accrue to or vest in the Fund.
- 54.** The Fund shall be vested in the Minister responsible for finance and shall be managed and administered by the Minister responsible for fisheries. Administration of Fund
- 55.** The Ministers referred to in section *fifty-four* shall apply the moneys of the Fund for the purposes of developing the fisheries and aquaculture sector and facilitating a community-based approach to fisheries management and development. Application of moneys of Fund
- 56.** The Ministers referred to in section *fifty-four* shall cause an annual statement of income and expenditure relating to the Fund to be prepared and laid before the National Assembly. Statement of income and expenditure

PART IX

GENERAL PROVISIONS

- 57.** The Mutual Legal Assistance in Criminal Matters Act applies to offences under this Act, except where the provisions of that Act are inconsistent with this Act. Mutual legal assistance Cap. 98
- 58.** (1) This Act shall have effect within as well as outside Zambia and notwithstanding where any offence is committed by any person, that person may be dealt with in respect of such offence as if it has been committed within Zambia. Offences committed outside Zambia
- (2) Any proceedings against any person under this section which would be a bar to subsequent proceedings against such person for the same offence, if such offence had been committed in Zambia, shall be a bar to further proceedings against that person under any written law for the time being in force relating to the extradition of persons, in respect of the same offence outside Zambia.

Extraditable
offences
Cap. 94

59. An offence under this Act shall be deemed to be an extraditable offence under the provisions of the Extradition Act.

General
offences

60. A person who—

- (a) without reasonable excuse has in that person's possession or deals in any fish or fish product taken contrary to the provisions of this Act;
- (b) contravenes any restriction, condition or order made under this Act;
- (c) transfers any licence or permit issued under this Act without the prior written consent of the Director;
- (d) casts adrift or otherwise interferes with any fishing equipment or aquaculture facility;
- (e) places any object in any fishery waters or aquaculture facility, or undertakes any activity in a manner so as to obstruct a valid fishing or aquaculture operation being carried out by another person;
- (f) destroys, damages, displaces or alters the position of any fishing equipment, aquaculture facility or any buoy, float or other marker attached to it;
- (g) removes fish from any fishing equipment belonging to some other person without the consent of that person;
- (h) dumps or allows to enter or permits to be dumped or discharged in fishery waters anything which is or may be injurious to fish, or which may disturb or alter the ecological balance in such waters, or hinders the catching of fish;
- (i) without reasonable excuse, fails to furnish any information required under this Act or provides false or misleading information;
- (j) conceals or destroys any fish, fish product, fishing equipment and aquaculture equipment, explosive, firearm, poison, noxious substance, chart, log, document or other thing with intent to avoid the seizure thereof or the detection of any offence under this Act; or
- (k) alters or defaces any licence or permit issued under this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

61. A person who is convicted of an offence under the provisions of this Act is, unless some other penalty is specifically provided therefor, liable to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

General
penalty

62. Where an offence under this Act is committed by a body corporate or unincorporate body, every director or manager of the body corporate or unincorporate body shall be liable, upon conviction, as if the director or manager has personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.

Offences by
body
corporate or
unincorporate
body

63. (1) Upon the conviction of any person of an offence under this Act, the court may, in addition to any other penalty imposed, declare the fish, fish products, net, trap, line, poison, explosive, firearm, appliance or device or subject to subsections (2) to (8), any conveyance with which the offence was committed, or which was used in, or for the purpose of, or in relation to, or in connection with, the commission of the offence, to be forfeited to the State without compensation and shall order the same to be disposed of as the State considers fit.

Forfeiture
provisions
on
conviction

(2) Where the prosecution requests a declaration of forfeiture in respect of any conveyance, the court shall make an order, to the effect that unless any person other than the convicted party claims, under this section, any right of ownership in the conveyance within three months of the date referred to in subsection (5), the prosecution may apply to the court, *ex parte*, for a declaration for forfeiture under subsection (1), and the court shall make the declaration.

(3) Upon the making of an order under subsection (2), the Director shall, within one month thereafter, cause to be published in the *Gazette* and in at least one daily newspaper of general circulation in the place where the offence was committed, a notice of the making of the order, which notice shall be in the prescribed form, or if no such form is prescribed, in a form approved by the court.

(4) If under any written law requiring the registration of any conveyance referred to in subsections (1) and (2), the conveyance is registered in Zambia in the name of any person other than the person convicted, the Director shall, within seven days after

publication of the notice in the *Gazette*, cause a copy to be sent by registered post in a sealed envelope addressed to the person at the address appearing on the register, and the registration of the letter shall be conclusive evidence of service of the notice upon such person.

(5) Any person who claims any right of a conveyance may, within three months after the making of the order referred to in subsection (2), serve upon the Director and lodge with the clerk of the court an application in writing for the discharge of the order setting out the claim of ownership in the conveyance, whereupon the clerk of the court shall fix a date, not less than one month after the lodgement of the application for a hearing and shall, within seven days after the lodgement, cause notice of the hearing of the application to be served upon the Director.

(6) In any proceedings brought under subsection (5), the burden of proof shall be on the applicant and no order discharging the order shall be made unless the applicant has adduced evidence and proved to the satisfaction of the court that the applicant was not in any way privy to the offence and that the conveyance was, at the time of the commission of the offence, being used for such purpose without the knowledge or consent of the applicant and without any negligent disregard on the part of the applicant, of its use by the convicted person.

Cap. 399 (7) Where, upon an application made under subsection (5), the court is satisfied that the conveyance is owned jointly by the claimant and the convicted party, or is the subjectmatter of a hirepurchase agreement between the claimant and the convicted party, and the claimant has discharged the burden of proof referred to under subsection (6), the court shall declare forfeited all of the estate or interest of the convicted person in and to the conveyance, or all of the rights therein accrued to that person under the hire purchase agreement or pursuant to the Hire Purchase Act and order the estate, or interest or rights to be disposed of as the State may consider fit.

Cap. 399 (8) Except with the consent of the State, any right vested in any claimant under any hirepurchase agreement or pursuant to the Hire Purchase Act to repossess any conveyance which is subject to an order made under subsection (2), shall be suspended pending the determination of any application brought under subsection (5), and in the event of the court declaring the rights therein accrued to the convicted party to be forfeited, the accrued right to repossess the conveyance shall not be exercisable against the State.

- 64.** Where a person is convicted of an offence under this Act, the court may order that any licence or permit held by such person under the provisions of this Act be cancelled and that such person shall not be issued with any further licence or permit for such period not exceeding six months as it may deem fit. Cancellation of licence or permit by court order
- 65.** The Director or any authorised officer may, subject to the directions of the Director of Public Prosecutions, conduct a prosecution for an offence under this Act and shall for that purpose have the powers of a prosecutor appointed under the National Prosecution Authority Act, 2010. Conduct of prosecution
Act No. 34 of 2010
- 66.** Nothing contained in this Act shall affect the liability in trespass of any person who enters upon the land of another person for the purpose of fishing without the permission of the owner or occupier thereof. Trespass upon private property
- 67.** (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of the provisions of this Act. Regulations
- (2) Without prejudice to the generality of subsection (1), regulations under that subsection may make provision for—
- (a) anything which by this Act may or is required to be prescribed;
 - (b) the registration of boats used for commercial fishing;
 - (c) the procedure to be followed and the records to be kept by a committee;
 - (d) the methods of fishing in any prescribed area;
 - (e) the control, management and improvement of any commercial fishing area;
 - (f) the methods of curing, preserving, processing or storing of fish at any commercial fishing area;
 - (g) the fees to be paid for anything to be done under this Act;
 - (h) the trade in and the sale and export of fish;
 - (i) the forms to be used for any application, permit, licence or other document issued or kept under the provisions of this Act;
 - (j) the keeping of records of fish taken under licence or removed from the Republic or exported;

- (k) the regulation and control of aquaculture;
- (l) the regulation and control of aquaculture, sport fishing and fishing for ornamental purposes;
- (m) placing limits on the amounts of fish to be caught or the number of licences, permits or other document to be issued in respect of a fisheries management area;
- (n) the keeping of records or requiring the provision of statistical and other information relating to a fisheries management area by a committee or any person authorised to carry on any activity under this Act;
- (o) establishing and regulating community-based or other decentralised fisheries management and any aspect of their operation;
- (p) financial management and the granting or delegating of power to any person, class or group of persons to enforce or implement regulations relating to fisheries conservation and management;
- (q) the control, development and management of any fisheries management area including the development, establishment and implementation of integrated community projects among communities within fisheries management areas; and
- (r) making or giving any order or direction generally for the better carrying out of the purposes of this Act.

(3) Any regulations made under this section may provide that any person who contravenes or fails to comply with such regulations commits an offence under this Act and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Repeal of
Cap. 200

Act No. 21 of
1974

68. (1) The Fisheries Act, 1974, is hereby repealed.

(2) Notwithstanding subsection (1), any permit or licence issued under the repealed Act shall be valid for a period of six months after which the holder thereof shall apply for a permit or licence, as the case may be, in accordance with the provisions of this Act.

SCHEDULE

(Section 29(8))

ADMINISTRATION

1. (1) Subject to the other provisions of this Act, a committee may regulate its own procedure. Proceedings of committee
- (2) A committee shall meet for the transaction of business at such places and at such times as the Chairperson may determine:
- Provided that the first meeting of a committee shall be called by notice given and at a place determined by the Director.
- (3) Upon giving notice of not less than fourteen days, a meeting of a committee may be called by the Chairperson and shall be called if not less than one- third of the members so request in writing:
- Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.
- (4) The quorum at any meeting of a committee shall be seven members.
- (5) There shall preside at any meeting of a committee—
- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice-Chairperson;
- or
- (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst their number for the purpose of that meeting.
- (6) A decision of a committee on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.
- (7) A committee may invite any person whose presence in its opinion is desirable to attend and to participate in the deliberations of a meeting of the committee but such person shall have no vote.
- (8) The validity of any proceedings, act or decision of a committee shall not be affected by any vacancy in the membership of the committee or by any defect in the appointment of any member or by reason that any person not entitled so to do, took part in the proceedings.

Financial
provisions
relating to
Fund

(9) A committee shall cause minutes to be kept of the proceedings of every meeting of the committee.

2. (1) A committee shall establish a fund to enhance the economic and social well being of the local riparian community within a fisheries management area.

(2) There shall be paid into the fund of a committee referred to in subparagraph (1)—

(a) such moneys from the revenues payable in respect of fishing and aquaculture licences issued under this Act and services rendered from the use of fisheries resources within a fisheries management area as the Minister may, after consultation with the Minister responsible for finance by regulations prescribe; and

(b) such moneys as the committee may, with the approval of the Minister, accept by way of grants and donations from any source within or outside Zambia.

(3) A committee shall cause to be kept proper books of accounts and other records relating to its accounts.

(4) The accounts referred to in subparagraph (3) shall be open for inspection by the Director or any member of the local riparian community concerned.

(5) The financial year of a committee shall be a period of twelve months ending on 31st December.

(6) A committee shall, not later than ninety days after the end of the financial year submit to the Minister—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) a report concerning its activities during the financial year.
