

THE FISHERIES ACT

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CHAPTER 200

FISHERIES

21 of 1974

13 of 1994

An Act to provide for the development of commercial fishing in the Republic; to control fishing and provide for the registration of fishermen and their boats; and to provide for matters connected with or incidental to the foregoing.

[8th November, 1974]

PART I PRELIMINARY

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

Short title

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

Interpretation

"authorised officer" means the Director, any officer of the Department of Fisheries duly authorised by the Director and any other person authorised in writing either by name or appointment by the Director;

"boat" means any water craft whether powered or unpowered used for or in connection with commercial fishing;

"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;

"Director" means the officer for the time being in charge of the Department of Fisheries;

"fish" means any vertebrate fish alive or dead and any part thereof whether or not preserved in any form and includes the young and eggs;

"fisherman" means any person who as a regular or occasional occupation, undertakes fishing for the supply of fish to any market or industry, and "occupation of a fisherman" shall be construed accordingly;

"fishing" includes any act directed at the taking, killing or injuring of any fish;

"water" means water in any river, stream, watercourse, lake, lagoon, swamp, pond, dam, reservoir or other place of a similar nature, but does not include water in aquaria or ornamental ponds unconnected with any natural water.

PART II

CONTROL OF FISHING

3. (1) No person shall, without the written permission of the Director which may be given to any person, class or group of persons, for the purpose of fishing, make, grow, use or have in his possession any poison, poisonous plants, or like injurious substance or make, use or have in his possession any explosive or any electrical fishing device.

Prohibited
methods of
fishing

(2) Any person contravening the provisions of this section shall be guilty of an offence.

4. Where it appears to the Minister that any method of fishing is likely to prove unduly destructive under any circumstances, he may by order in respect of any area for a period to be stated in such order-

Power to
restrict methods
of fishing

(a) prohibit the use of such method;

(b) subject the use of such method to such conditions as he may deem fit.

5. (1) No person shall 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.

(2) Any person contravening the provisions of this section shall be guilty of an offence.

PART III

SPECIAL FISHING AREAS AND LICENCES

6. (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 foregoing purposes the area is so declared. Prescribed areas

(2) The Minister may, in respect of any prescribed area designated as such under the provisions of subsection (1), regulate the method of fishing to be used therein and may prohibit the use of nets.

7. (1) Notwithstanding the provisions of this Act, it shall be lawful for the Minister, upon such conditions as he may deem fit, and upon payment of such fee as may be prescribed, to grant to any person or persons collectively a licence to be known as 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: Special fishing licences

(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;

(d) experiment subject to the direction of the Director.

(2) A Special Fishing Licence may in the discretion of the Minister authorise the holder to fish by any means or method of fishing, whether otherwise prohibited or not, subject, however, to such conditions as the Minister may deem fit to impose.

PART IV

COMMERCIAL FISHING

8. (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 the provisions of 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 which must be held by any person fishing in a commercial fishing area;
- (e) prescribing the records to be kept and the information to be provided by any person fishing in a commercial fishing area:

Provided that nothing contained in any such regulations shall apply to or in any way affect any person who is not registered with the Director in accordance with the provisions of section *nine*.

9. The Minister may, by statutory instrument, provide that any person who so desires may register with the Director as a fisherman. Registration of fishermen

10. (1) The Minister may, by statutory order, require that every boat used by a fisherman for the purpose of commercial fishing shall be registered with the Director in such manner and on payment of such fee as the Minister may prescribe.

Registration of
boats

(2) Any fisherman who fails to register a boat used by him for the purpose of commercial fishing shall be guilty of an offence.

11. (1) Every 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.

12. (1) For the better co-ordination and improvement of commercial fishing in any commercial fishing area, the Minister may in respect of such area appoint a committee to be known as the Fishing Development Committee which shall submit its reports to the Minister.

Fishing
Development
Committee

(2) The members of any Fishing Development Committee shall be appointed by the Minister under such terms and conditions and for such periods as the Minister may prescribe.

PART V

OFFENCES AND PENALTIES

13. (1) If any officer has reasonable grounds for believing that any person has committed an offence against this Act, he may-

Powers of
search, seizure
and arrest

(a) require any such person to produce for his inspection any fish or any vehicle, bicycle or boat, or any net, trap, line or any poison or explosive or any other appliance, device, material or thing whatsoever in relation to or in connection with which an offence appears to such officer to have been committed or any licence or other document issued

to him or required to be kept by him under the provisions of this Act;

(b) enter and search any land, building, tent, vehicle or boat occupied by or under the control of such person and open and search any baggage or anything in his possession and require him to show any traps, weirs, stakes, banks, obstructions, fences or other immovable contrivances:

Provided that no house or other dwelling shall be entered without a warrant;

(c) seize any fish or any net, trap, line or any poison or explosive or any other appliance, device or material in relation to or in connection with which an offence appears to him to have been committed, whether or not it is in the possession of any person;

(d) without warrant arrest and detain any person appearing to him to have committed an offence unless he is satisfied that such person will appear and answer any charge which may be preferred against him.

(2) Any person detained or any thing seized under the foregoing provisions shall forthwith be taken before a court to be dealt with according to law and, where it is not practicable to remove from its location any apparently unlawful means of fishing, such means of fishing may forthwith be rendered inoperative.

(3) Any person who without reasonable excuse, the burden of proof whereof shall lie on such person, fails to produce or show anything which under the powers conferred by this section he is required to produce or show shall be guilty of an offence against this Act:

Provided that where such person is on demand being made to him unable to produce any licence, permit or document issued under the provisions of this Act, he shall not be guilty of an offence under this subsection if he produces such licence, permit or document within a reasonable time, not exceeding twenty-one days, to an officer or employee of the rural council for the area, and explains to such officer or employee that such licence, permit or document is produced in compliance with the demand of an officer and names the place where such demand was made.

(4) It shall be lawful for any officer to stop and detain any person whom he sees doing an act for which a licence or permit is required under the provisions of this Act for the purpose of requiring such person to produce his licence or permit, and if such person fails to produce his licence or permit, he may be arrested without a warrant unless he furnishes his name and address and otherwise satisfies the officer that he will duly answer any summons or other proceedings which may be taken against him.

(5) The Government shall not be responsible for any loss or damage which may occur to any property during an act of seizure or whilst such property is detained under this section, and no officer shall be responsible for any such loss or damage unless he shall have caused the same negligently, maliciously or fraudulently.

(6) For the purposes of this section, "officer" means any authorised officer and any police officer.

14. Any person who is guilty of an offence under the provisions of this Act shall, unless some other penalty is specifically provided therefor, be liable to a fine not exceeding four thousand penalty units or to imprisonment for a period not exceeding six months, or to both. Penalties

(As amended by Act No. 13 of 1994)

15. (1) Where any person is convicted of an offence against this Act or where no person has within three months of the seizure of anything mentioned in subsection (1) (c) of section *thirteen* appeared to answer a charge, the court may order that any fish, or any net, trap, line or any poison or explosive or any other appliance, device or other thing in relation to or in connection with which an offence has been committed shall be forfeited to and become the property of the Government, and such property shall thereafter be destroyed or otherwise disposed of in accordance with any general or special instruction which the Director may issue in that behalf. Forfeitures

(2) A court may order any person who unlawfully makes, uses or has in his possession any weir, bank, or other device or obstruction whatever used for the purpose of fishing which it is impracticable to move, to destroy and obliterated it, or order that it shall be otherwise destroyed and obliterated and in such case any expenditure incurred shall be

recoverable from the offender.

16. Where any person is convicted of an offence against 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 licences by court order
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17. The Director or any authorised officer may, subject to the directions of the Director of Public Prosecutions, conduct a prosecution for an offence against this Act and shall for that purpose have the powers of a public prosecutor appointed under any written law for the time being in force.	Conduct of prosecution
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18. Any person who without reasonable excuse has in his possession or deals in any fish which has been taken contrary to the provisions of this Act shall be guilty of an offence.	Unlawful possession of fish
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PART VI

GENERAL

19. Nothing contained in this Act shall affect the liability in trespass of any person who enters upon the lands of another for the purpose of fishing without the permission of the owner or occupier thereof previously had and obtained.	Trespass upon private property
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20. (1) The Minister may in his discretion vary, suspend or cancel any licence or permit issued under this Act.	Cancellation, suspension or variation of licences and permits by Minister
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(2) The Director or any licensing officer may refuse to issue a licence, and may vary, suspend or cancel any licence issued under this Act other than a licence issued by the Minister and, in any case in which he shall have done so, he shall forthwith report the fact to the Minister.

(3) Where any licence has been refused, cancelled or suspended under this section, the person aggrieved may appeal in writing to the Minister whose decision thereon shall be final.

(4) Where a licence has been cancelled under this section, the Minister may, if he considers fit, direct that the whole or part of any fee paid therefor shall be refunded.

(5) Any authorised officer may-

(a) state to a licensing officer an objection in writing to the issue of any licence in which case the licensing officer shall, in accordance with the provisions of subsection (2), refuse to issue the licence;

(b) exercise the powers of cancellation and suspension conferred by subsection (2).

21. (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of this Act. Regulations

(2) In particular and without prejudice to the generality of the foregoing, such regulations may be made-

(a) prescribing anything which by this Act may or is to be prescribed;

(b) requiring the registration of fishermen and boats used for commercial fishing;

(c) prescribing the procedure to be followed and the records to be kept by a Fishing Development Committee;

(d) regulating the methods of fishing in any prescribed area;

(e) providing for the control, management and improvement of any commercial fishing area;

- (f) regulating the methods of curing, preserving, processing, or storing fish at any commercial fishing area;
- (g) prescribing the fees to be paid for anything to be done under this Act;
- (h) regulating the trade in and the sale and export of fish;
- (i) prescribing the forms to be used for any application, permit, licence, or other document issued or kept under the provisions of this Act;
- (j) providing for the keeping of records of fish taken under licence or removed within the Republic or exported;
- (k) regulating and controlling fish culture and fish farming;
- (l) making or giving any order or direction generally, for the better carrying out of the purposes of this Act.

(3) Any such regulations may provide that any person who contravenes or fails to comply with such regulations shall be guilty of an offence against this Act, and may further provide that, unless some other penalty is in such regulations specifically provided therefor, such person shall be liable to a fine not exceeding one thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

(As amended by Act No. 13 of 1994)

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| <p>22. An authorised officer may for the purpose of obtaining fish statistics weigh, measure and check any fish, and any person in charge of fish shall on demand being made to him produce such fish to the authorised officer for that purpose.</p> | <p>Powers of authorised officers to take statistics</p> |
| <p>23. The Minister may, in his discretion, exempt any person or persons from all or any of the provisions of this Act, either generally or in respect of any particular area or waters.</p> | <p>Exemption from provisions</p> |
| <p>24. The Director may, with the prior approval of the Minister, delegate to any suitably qualified person the powers conferred upon him by this</p> | <p>Delegation of powers by</p> |

Act.

Director

SUBSIDIARY LEGISLATION