

## FISHERIES AMENDMENT ACT 2006

---



**BERMUDA**

**2006 : 24**

### FISHERIES AMENDMENT ACT 2006

Date of Assent: 20 July 2006

Sections 2(b) and 12 Operative Date: Notice in Gazette

All other sections Operative Date: 20 July 2006

#### ARRANGEMENT OF SECTIONS

1	Short title	9	Amends section 17
2	Amends section 1	10	Amends section 18
3	Insertion of section 3A	11	Amends section 19A
4	Amends section 4	12	Amends types of licences
5	Amends section 5	13	Insertion of Fourth Schedule
6	Amends section 6	14	Commencement
7	Amends section 7		
8	Amends section 8		

WHEREAS it is expedient to amend the Fisheries Act 1972:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

#### **Short title**

1 This Act may be cited as the Fisheries Amendment Act 2006.

#### **Amends section 1**

2 Section 1 of the Fisheries Act 1972 (in this Act referred to as "the principal Act") is amended —

## **FISHERIES AMENDMENT ACT 2006**

---

- (a) in the definition of “fish”, by deleting “animals” and substituting “organisms”;
- (b) by deleting the definition of “licence” and substituting the following definitions —
  - “commercial licence” means a licence granted by the Commercial Fisheries Council in Regulations made under this Act;
  - “recreational licence” means a licence granted by the Department of Environmental Protection in Regulations made under this Act”; and
- (c) by deleting the definition of “taking” and substituting the following definition —
  - “taking” in relation to any fish includes injuring, capturing, killing, destroying, collecting and being in possession of any such fish;”.

### **Insertion of section 3A**

3 The principal Act is amended by inserting the following section next after section 3 —

#### **“Commercial Fisheries Council**

3A (1) There is established for the purpose of this Act a body to be called the Commercial Fisheries Council, to be responsible among other things for—

- (a) the issuing of commercial fishing licences; and
- (b) assessing eligibility for benefits for fishermen in respect of fishing vessels, fishing equipment and related matters.

(2) The Fourth Schedule has effect with respect to the constitution and proceedings of the Council.”.

### **Amends section 4**

4 Section 4 of the principal Act is amended —

- (a) by deleting “order” wherever it occurs and substituting “Order”;
- (b) in subsection (3) —
  - (i) by inserting next after the words “protected area” where it first occurs, the words “or who sells, purchases or transports fish so taken”;
  - (ii) by inserting next after the words “on board that vessel to take”, the words “sells or purchases”;

## **FISHERIES AMENDMENT ACT 2006**

---

- (iii) by deleting “\$5,000” and substituting “\$25,000.00”; and
- (iv) by deleting “one year” and substituting “two years”.

### **Amends section 5**

5 Section 5 of the principal Act is amended—

- (a) in subsection (1) by deleting “order” and substituting “Order”; and
- (b) in subsection (2)—
  - (i) by deleting “shall” where it first occurs;
  - (ii) by deleting “\$5,000” and substituting “\$25,000.00”; and
  - (iii) by deleting “one year” and substituting “two years”.

### **Amends section 6**

6 Section 6 of the principal Act is amended —

- (a) in subsection (2)(a) —
  - (i) by deleting “living fish, and any”; and
  - (ii) by deleting “order” and substituting “Order”; and
  - (iii) by deleting “except” and substituting “exempt”;
- (b) in subsection (3) by deleting “\$5,000” and substituting “\$25,000.00”; and
- (c) by deleting “one year” and substituting “two years”.

### **Amends section 7**

7 Section 7 of the principal Act is amended —

- (a) in subsection (1) —
  - (i) by deleting “shall” where it first occurs; and
  - (ii) by deleting “\$150,000” and substituting “\$1,000,000.00”; and
- (b) by repealing subsection (2)(b) and substituting the following —

“(b) for sporting purposes, after the vessel has first made entry in respect of the voyage on which it is engaged, at a port of entry in Bermuda and has obtained a recreational fishing licence.

(2A) The log book or other documents of a vessel used in contravening subsection (1) may be seized and used as evidence.”.

## **FISHERIES AMENDMENT ACT 2006**

---

### **Amends section 8**

8 Section 8 of the principal Act is amended —

- (a) in subsection (1) by inserting next after the word “and” where it last occurs, the word “arrest”;
- (b) in subsection (3) by deleting “retain” and substituting “detain”; and
- (c) in subsection (4) by deleting “\$300” and substituting “\$5,000.00”.

### **Amends section 17**

9 Section 17 of the principal Act is amended —

- (a) by deleting “order or regulation” and substituting “Order or Regulations”;
- (b) by deleting “and failing to give a satisfactory explanation of such possession”; and
- (c) by deleting “\$5,000” and substituting “\$25,000.00”.

### **Amends section 18**

10 Section 18 of the Principal Act is amended by deleting “regulation or order” and substituting “Regulations or Order”.

### **Amends section 19A**

11 Section 19A of the principal Act is repealed and the following section is substituted—

#### **“Parliamentary scrutiny**

19A The negative resolution procedure shall apply to Orders and Regulations made under this Act.”.

### **Amends types of licences**

12 The principal Act is amended as specified in the First Schedule to this Act.

### **Insertion of Fourth Schedule**

13 The principal Act is amended by inserting the Second Schedule to this Act as a Fourth Schedule.

### **Commencement**

14 (1) Except for sections 2(b) and 12, this Act shall come into force on assent.

(2) Sections 2(b) and 12 shall come into force on such day as the Minister may appoint by Notice published in the Gazette.

## **FISHERIES AMENDMENT ACT 2006**

---

<b>Provision amended</b>	<b>FIRST SCHEDULE</b>		<b>(Section 12)</b>
	<b>Delete</b>	<b>Insert</b>	
Section 4(2) and (3)	licence	commercial or recreational licence	
Section 6(1) and (3)	licence	commercial or recreational licence	
Section 7(2)(a)	licence	commercial licence	
Section 13 (1) (b)	licences wherever it occurs	commercial or recreational licences	
Section 17	licence wherever it occurs	commercial or recreational licence	

### **SECOND SCHEDULE**

### **“FOURTH SCHEDULE** (Section 3A)

#### **COMMERCIAL FISHERIES COUNCIL - CONSTITUTION AND PROCEDURE**

##### **Constitution of the Council**

1 The Council shall consist of the Director of the Department of Environmental Protection (ex officio) or his designate, and not more than eight persons appointed by the Minister, five of whom shall be commercial fishermen and three of whom shall be from other marine resource user groups.

##### **Tenure of office**

2 A person appointed to be a member of the Council shall hold office during the Minister's pleasure and unless his appointment is sooner terminated, shall hold office for three years from the date upon which his appointment took effect, but he shall be eligible for re-appointment upon the expiration of his term of office.

## **FISHERIES AMENDMENT ACT 2006**

---

### **Chairman and Deputy Chairman**

3 There shall be a Chairman and a Deputy Chairman of the Council both of whom shall be appointed by the Minister from among the members of the Council and each of whom shall, subject to paragraph 2, hold office as such during the Minister's pleasure.

### **Temporary appointment**

4 In case of the absence or inability of any member to act, the Minister may appoint a person to act temporarily in his place.

### **Resignation**

5 (1) Any member, other than the Chairman, may at any time resign his office in writing addressed to the Minister and transmitted through the Chairman and from the date of receipt by the Minister of such writing such member shall cease to be a member.

(2) The Chairman, may at any time resign his office in writing addressed to the Minister and from the date of receipt by the Minister of such writing such member shall cease to be a member.

### **Removal of member**

6 The Minister, may at any time revoke the appointment of any member if he considers it expedient to do so.

### **Effect of vacancy on the Council**

7 Subject to this Schedule, the Council shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of Chairman or any other member.

### **Procedure at meeting**

8 (1) The Council shall meet at such times and on such days as may be necessary or expedient for the transaction of its business.

(2) The minutes of each meeting of the Council shall be kept in proper form.

(3) The Chairman may at any time call a meeting of the Council and shall call a meeting within five days of a written request for that purpose addressed to him by any three members.

(4) The Chairman shall preside at all meetings of the Council at which he is present, and in his absence, the deputy Chairman shall preside, and in the absence of the Chairman and the deputy Chairman, the members present and constituting a quorum shall elect a Chairman from among the members to preside at that meeting.

(5) Every member, including the ex officio, shall have one vote; the Chairman shall have an original vote but in the event of an equality of votes he shall have a casting vote.

## **FISHERIES AMENDMENT ACT 2006**

---

(6) Subject to sub-paragraph (5) decisions of the Council shall be by majority vote.

(7) A quorum of the Council shall be five, at least three of whom shall be commercial fishermen.

(8) Subject to this Schedule the Council may regulate its own proceedings.

(9) The validity of any proceedings of the Council shall not be affected by any defect in the appointment of a member.

### **Protection of the Council**

9 Notwithstanding anything to the contrary no act done or proceedings taken under this Act by the Council shall be questioned on the ground of any omission, defect, or irregularity not affecting the merits of the case.

### **Protection of members**

10 No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Council in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

### **Office of member not public office**

11 The office of Chairman or member of the Council shall not, by virtue of this Act alone, be a public office.

### **Validity of decision of Council**

12 No decision or act of the Council or act done under the authority of the Council shall be invalid by reason of the fact that —

- (a) the full number of members for which provision is made in paragraph 1 of this Schedule was not appointed or there was a vacancy amongst such members; or
- (b) a disqualified person acted as member of the Council at the time the decision was taken or the act was done or authorized,

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as members.

### **Remuneration**

13 Fees shall be paid to members of the Council in accordance with the Government Authorities (Fees) Act 1971.”.