

FISHERIES AMENDMENT ACT 2007



BERMUDA

2007 : 1

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Date of Assent: 10 March 2007
Operative Date: 10 March 2007

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 2007.

Amends section 1

2 Section 1 of the Fisheries Act 1972 (in this Act referred to as “the principal Act”) is amended by deleting the definition of “commercial licence” and “recreational licence” and substituting in their proper alphabetical positions, the following definitions —

“fish aggregation area” means a group of fishes that temporarily assembles in an area at higher than normal densities;

“commercial fishing vessel licence” means a commercial fishing vessel licence, issued by the Commercial Fisheries Council in Regulations made under this Act;

“recreational fishing licence” means a recreational fishing licence, issued by the Director of the Department of Environmental Protection in Regulations made under this Act.

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Amends section 3A

3 Section 3A of the principal Act is amended —

(a) in subsection (1) by —

(i) inserting next after “Council”, the words “(in this Act referred to as “the Council”); and

(ii) deleting “commercial fishing licences” and substituting “licences, specified in Regulations made under this Act, to be issued by the Council”; and

(b) by inserting the following subsection next after subsection (1) —

“(1A) The Minister may give policy directions to the Council.”.

Amends section 4

4 Section 4 of the principal Act is amended —

(a) in the headnote, by deleting “fishing” and substituting “economic”; and

(b) by deleting subsections (3) and (3A) and substituting the following subsections —

“(3) Any person who, in contravention of any Order made under this section in respect of such area or of any term or condition attached to a commercial fishing vessel licence or recreational fishing licence granted under this section —

(a) takes any fish in a protected area or who sells, purchases or transports fish so taken; and

(b) the master or other person in charge of any vessel who suffers or permits any person on board that vessel to take, sell or purchase any fish in a protected area,

commits an offence.

(3A) A person found guilty of an offence under subsection (3) is, subject to section 14, liable on summary conviction, to imprisonment for two years or a fine of \$25,000.00 or both such imprisonment and fine, and any fish so taken and any vessel, instrument and equipment used in the taking, shall be liable to forfeiture.

(3B) Any person who —

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- (a) anchors any vessel within a protected area, if the anchoring of the vessel is prohibited by an Order made under this section; or
- (b) uses within a protected area, any anchor other than an anchor of a type specified in such Order,

commits an offence and is liable on summary conviction to a fine of \$1,000.”.

Insertion of section 4A

5 The principal Act is amended by inserting the following section next after section 4 —

“Declaration of fish aggregation areas by gazette notice

4A (1) Notwithstanding section 4, where the Minister, on consideration of a report from the Director of the Department of Environmental Protection or other information in the Minister’s possession, is satisfied that there is an immediate need for the prohibition of fishing in a fish aggregation area, for the conservation and protection of fish in the exclusive economic zone, the Minister may by notice published in the Gazette prohibit fishing in that fish aggregation area for a period not exceeding ninety days, pending the making of an Order under section 4.

(2) Where the Minister, by notice under subsection (1) prohibits fishing in an area declared to be a fish aggregation area within the exclusive economic zone, the provisions of section 4 shall apply with necessary modifications as if the notice were an Order made under section 4.

(3) When the Minister publishes a notice under subsection (1), as soon as possible after the notice is published in the Gazette, the Minister shall take concrete steps to disseminate the notice —

- (a) in at least one newspaper with wide circulation in Bermuda; and
- (b) by announcements on radio and television in Bermuda.

(4) Where it is proved in a prosecution under this section that the Minister has published the notice in accordance with subsection (1) and disseminated the notice in accordance with subsection (3), the accused shall be presumed to have notice of the offence, unless he establishes he did not know of the notice and could not reasonably have been expected to know of the notice.

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(5) A notice published under subsection (1) shall expire at the end of the time specified by the Minister in the notice and no person shall be prosecuted under this section for committing an offence after the expiration of the notice.

(6) Section 6 of the Statutory Instruments Act 1977 shall not apply to a notice published under this section.”.

Amends section 6

6 Section 6 of the principal Act is amended in subsection (1) by deleting “in that behalf granted” and substituting “granted in that behalf”.

Amends principal Act

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

Provision amended	“SCHEDULE		(Section 7)
	Delete	Insert	
Section 4(2))	commercial or recreational licence	commercial fishing vessel licence or recreational fishing licence	
Section 6(1) and (3)	commercial or recreational licence	commercial fishing vessel licence or recreational fishing licence	
Section 7(2)(a)	commercial licence	commercial fishing vessel licence	
Section 13 (1) (b)	commercial or recreational licence wherever it occurs	commercial fishing vessel licence or recreational fishing licence	
Section 17	commercial or recreational licence wherever it occurs	commercial fishing vessel licence or recreational fishing licence.”	