

Fisheries (Amendment) Act 1992

REPUBLIC OF KIRIBATI
(No. 5 of 1992)

I assent,

Teatao Teannaki
Beretitenti

14/10/1992

AN ACT TO AMEND THE FISHERIES ORDINANCE (CAP. 33) AND FOR CONNECTED PURPOSES

Commencement:
1992

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title

1. This Act may be cited as the Fisheries (Amendment) Act 1992.

Insertion of a new section

2. Section 5 of the Fisheries Ordinance is amended by inserting between section 5 and section 6 the following section –

"Master, owner or charterer not to leave Kiribati unless fine is paid

5A (1) Where the master, owner or charterer of a foreign fishing vessel used in contravention of the provisions of section 5, is convicted of an offence under this Act, the Court so convicting may in addition to any fine as it deems fit to impose, order that the Principal Immigration Officer shall have power to prevent –

- (a) such master;
- (b) owner; or
- (c) charterer,

from leaving Kiribati until they pay the full amount of the fine so imposed.

(2) A copy of the Court order made under subsection (1) and sent by the Court to the Principal Immigration Officer shall be sufficient authority for the Principal Immigration Officer to act in pursuance of subsection (1).

(3) Subject to subsection (4), where the owner or charterer of the vessel referred to in subsection (1) is neither resident nor physically present in Kiribati at the time when the vessel was first arrested, the master referred to in subsection (1) –

- (a) shall be deemed to be the owner or charterer for the purposes of this section; and
- (b) may be charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate, as if he were the owner and charterer of the vessel referred to in subsection (1).

(4) Where the owner or charterer of a foreign fishing vessel is neither resident nor physically present in Kiribati at the time when the vessel was first arrested or at any time after such arrest any employee, agent or representative of such owner or charterer, who may be resident or physically present in Kiribati at any time after such arrest –

(a) shall be deemed to be the owner or charterer as the case may be for the purposes of this section; and

(b) maybe charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate, as if such employee, agent or representative were the owner or charterer as the case may be.

(5) Any cost or expenditure incurred by the Republic in connection with –

(a) the arrest of a foreign fishing vessel illegally fishing in the fishery limits; and

(b) the prosecution of –

(i) the master, owner or charterer of such foreign fishing vessel; and

(ii) in the case where such owner or charterer is prosecuted and convicted through or by his employee, agent, or representative under subsection (4), such employee, agent or representative,

shall be borne by the owner or charterer as the Court may determine.

(6) Any cost or expenditure incurred by –

(a) the master, owner or charterer of a foreign fishing vessel; and

(b) in the case where such owner or charterer is prosecuted and convicted through or by his employee, agent or representative under subsection (4), such employee agent or representative, after being prevented from leaving Kiribati under subsection (1), shall be borne by such master, owner or charterer or in the case where paragraph (b) applies, by such employee, agent or representative.

(7) In this section –

"Master" means a person who is or appears to be in charge or command of a fishing vessel; and

"Principal Immigration Officer" means a person appointed to be the Principal Immigration Officer under Section 4(1) of the Immigration Ordinance (Cap. 41)."

FISHERIES (AMENDMENT) ACT 1992

EXPLANATORY MEMORANDUM

During the past few years Kiribati has on a number of occasions succeeded in arresting some foreign fishing vessels for illegally fishing in our fisheries zone. All these foreign fishing vessels were forfeited to the Republic and later sold to the owner for a consideration negotiated between the owner and the Government.

The master, owner and charterer of such vessel on the other hand were often convicted by the Court of illegally fishing in our fisheries zone and consequently they are fined in accordance with the prescribed fine which can be quite substantial in amount.

Invariably however, enforcement difficulties can be quite considerable and sometimes payment of fines imposed upon such master, owner and charterer of such vessels are delayed quite unreasonably or not paid at all.

In so far as we are able to ascertain the reason for such inordinate delay of our non-payment of the fine it would seem that the contribution or major factor is the master, owner or charterer or the master where no owner or charterer is physically present in Kiribati being set free prematurely and allowed to leave Kiribati without payment of the fine.

The Act therefore seeks to remedy this kind of unfortunate situation. And this is achieved by empowering the Court to authorise the Principal Immigration Officer to prevent such persons from leaving Kiribati so long as their fines are not paid (Clause 5A(1) and (2)).

Where the owner and charterer are not physically present in Kiribati at the time of conviction by the Court, then the Master shall be deemed to be the owner and charterer as the case may be (Clause 5A(3)).

Further the cost of the arrest of any foreign fishing vessel fishing illegally in our fisheries zone or limit shall be borne by the master, owner or charterer as appropriated.

Michael N. Takabwe
Attorney General
20 August 1992