

The Fisheries Act

RL 2/771-24 May1980

ARRANGEMENT OF SECTIONS

short title

Interpretation

Licences

Restriction on import and export of fish

General prohibition of fishing

Restriction of fishing

Fish landing stations

Sale of fish

Protection of fish and the environment

Oyster farming

Authorised fishing implements

Licensing of nets

Duties of licensee of net

Disposal of nets

Trading restrictions

Close periods

setting and removal of gill nets

Fishing with artificial light

Fishing in reserved areas

Fishing in a pass

Prohibition of the use of explosives

Prohibition of underwater fishing

Fishing boats

Identification of fishing boats

Register of fishing boats

Power to search boats and vehicles

Power of entry and search

search warrants

Power to arrest and detain

Origin or source of fish

Seizure

Disposal of articles seized

Things used in commission of offence

Penalties

The Board

Functions of the board

Meetings of the Board

Regulations

1 Short title

This Act may be cited as the Fisheries Act.

2 Interpretation

In this Act-

"accessory"-

(a) means any equipment used on a fishing boat; and

(b) includes a sail, an oar and any motor of any description;

"bait net" means a net approved by the Principal Assistant Secretary for catching fish to be used as bait;

"barachois" means a pond enclosed towards the sea by a weir or dam fitted with one or more barred gates or grids through which the sea flows and reflows;

"basket trap" means a basket with one or more entrances and having meshes of sufficient size to allow a cylinder measuring non less than 4 centimetres in diameter to pass through easily;

"Board" means the Fishery Advisory Board established under section 35;

"canard net" means a net-

(a) used in conjunction with a large net for catching mullet;

(b) made by several layers of nets fitted with poles to maintain the whole net afloat

on the surface of the water;

(c) the meshes of any of the layers which measure not less than 9 centimetres

when stretched diagonally and when the net is wet;

"cartel net" means a net in the shape of a bag with meshes of any size, the mouth of which is kept open by a hoop non more than one metre in diameter;

"cast net" means a conical net with weights attached to the open circumference of the base and having meshes measuring not less than 9 centimetres when stretched diagonally and when the net is wet;

"citizen" means a citizen of Mauritius;

"close period" means the periods specified in section 16 and any prescribed period during which fishing with any specified implement may, be prohibited;

"explosive" has the same meaning as in the Explosives Act;

"fish"

(a) means any aquatic animal organism; and

(b) includes-

(i) shells and corals, whether live or dead;

(ii) salted fish, dried fish, cooked fish and frozen fish;

"fisherman" means a person who fishes with a view to selling his catch and includes the owner of any fishing boat used;

"fishing" includes catching or killing any fish;

"fishing boat" means any raft, craft or vessel of any size, used, intended to be used or capable of being used, for fishing;

"fishing limits" includes-

(a) the territorial waters;

(b) the exclusive economic zone;

(c) the continental shelf; and

(d) areas where Mauritius has traditional or historic rights, as provided for in the Maritime Zones Act;

"fish spear" includes a fouine, a gaffe and a hand propelled harpoon;

"gill net" means a net which-

(a) is set for catching migrating fish;

(b) does not exceed 250 metres in length;

(c) is made up of square meshes measuring net less than 11 centimetres when stretched diagonally and when the net is wet;

"implement" means any article or thing used or intended to be used for fishing;

"landing net" means a net in the form of a bag having-

(a) meshes of any size;

(b) a hoop measuring not more than 50 centimetres in diameter and fitted with a handle;

"landing station" means any area near the shore which is designated by the Minister as a landing place for fish;

"large net" means a net which-

- (a) does not exceed 500 metres in length;
- (b) is made up of square meshes measuring net less than 9 centimetres when stretched diagonally, and when the net is wet;

"lure" means any artificial bait;

"Minister" the Minister to whom responsibility for the subject of fisheries is assigned;

"net" means any net used or intended to be used for fishing;

"Officer"

(a) means any fisheries officer; and

(b) includes a police officer, a customs officer, a forest officer;

"pass" means a channel through the reefs in which the sea flows and reflows and includes the entrance to any harbour, bay or creek;

"permit" means any written authority or approval granted by the Principal Assistant Secretary;

"Principal Assistant Secretary" (a) means the Principal Assistant Secretary of the Ministry of Fisheries, Cooperatives & Cooperative Development;

(b) includes any person deputed by him;

"reserved area" means such area of the sea as the Minister may prescribe where fishing with a large net or a gill net is prohibited;

"sardine net" means a net used for catching sardines, lamames or mangoustes;

"self" includes hawk, expose, keep, offer, transport and consign for sale;

"shrimp net" means a net in the form of a bag not exceeding 2 square metres which-

(a) is used for catching shrimps; and

(b) is fitted with a hoop measuring not more than 50 centimetres diametrically or diagonally; or

(c) is mounted on 2 handles and fitted with weights;

"undersized fish" means any species of fish the size of which may be prescribed.

3 Licences

(1) Any person who wishes to obtain a licence for any purpose under this Act shall make a written application to the Principal Assistant secretary.

(2) Upon receipt of an application under subsection (1), the Principal Assistant Secretary may request the applicant to furnish such particulars as he may require for the purpose of determining whether the application should be granted.

(3) Where the Principal Assistant Secretary is satisfied that a licence may be issued, he shall, subject to subsection (6), issue the licence in the prescribed form, on such terms and conditions as he thinks fit and on payment of the

prescribed fee.

(4) No licence issued under this Act shall be transferable.

(5) Every licensee shall, on demand, produce to an officer any licence issued to him under this Act.

(6) The Principal Assistant Secretary shall net at any time license the use of more than

(a) 33 large nets, 33 canard nets and 20 gill nets in the Island of Mauritius;

(b) 14 large nets, 14 canard nets and 10 gill nets in the Island of Rodrigues;

(c) 8 large nets, 8 canard nets and 8 gill nets for Cargados Carajos Archipelago, Agalega, Tromelin and the Chagos Archipelago and any other area where Mauritius has fishing rights.

4 Restriction on import and export of fish

(1) No person shall, except with the written approval of the Principal Assistant Secretary, import into, or export from, Mauritius-

(a) any live fish;

(b) any coral or shell, whether live or dead.

(2) The Principal Assistant Secretary may, in writing, authorise the introduction into Mauritius of fish intended for release.

(3) No fish introduced under subsection (2) shall be released except-

(a) after it has been kept under observation and central for such period and on such terms and conditions as the Principal Assistant Secretary thinks fit; and

(b) with the written approval of the Principal Assistant Secretary.

(4) Where the Principal Assistant Secretary is satisfied that fish introduced into Mauritius and intended for release is unsuitable for the purpose, he may order the fish to be forfeited and destroyed without any compensation to the importer.

5 General prohibition of fishing

Subject to the other provisions of this Act, the Minister may, by regulations prohibit fishing by any means in such area and for such period as may be prescribed.

6 Restriction of fishing

(1) Notwithstanding any other enactment, no person shall fish within the fishing limits of Mauritius, other than the territorial waters, except under a licence granted by the Prime Minister.

(2) No person shall fish any turtle or any marine mammal within the fishing limits of Mauritius without the written approval of the Principal Assistant Secretary.

7 Fish landing stations.

(1) No fisherman shall land any fish except at a fish landing station.

(2) Any fisherman who lands fish at a fish landing station shall-

(a) at the request of an officer, cause the fish to be weighed by the officer;

(b) keep or store the fish in such manner and at such place as an officer may direct;

(c) non expose the fish to rain, sun and files and other unhygienic conditions.

(3) where an officer is satisfied that fish landed is unsuitable for human consumption on account of its bad state of preservation or of its toxic nature, he shall order the fish to be forfeited and destroyed without any compensation to its owner.

8 Sale of fish

(1) Subject to subsection (2), no person shall sell or have in his possession for sale any fish unless he holds a licence.

(2) Subsection (1) shall not apply to a fisherman who sells fish to a fishmonger at a fish landing station.

(3) No fishmonger who purchases fish at a fish landing station shall refuse to sell fish at the landing station.

(4) No person shall sell or have in his possession for sale any fish which is unfit for human consumption.

9 Protection of fish and the environment.

(1) Subject to subsection (2), no person shall fish or have in his possession any undersized fish, crab 'carlet' or spiny lobster in the berried state.

(2) The Principal Assistant Secretary may, subject to such terms and conditions as he thinks fit, authorise the capture of-

(a) the fishes specified in subsection (i) for scientific or reproductive purposes;

(b) undersized fish by the owner of a barachois for stocking the barachois.

(3) No person shall put, throw, discharge or cause to be put, thrown or discharged into the waters within fishing limits of Mauritius and into any river, lake, pond, canal or tributary, any substance likely to injure any fish.

10 Oyster farming

(1) Subject to subsections (2) and (8), no person shall run an oyster farm without the written approval of the Minister.

(2) Any person who wishes to run an oyster farm shall-

(a) make a written application to the Minister in the prescribed form;

(b) cause a notice of his application to be published in the Gazette, and in 2 daily newspapers.

(3) Any person who wishes to object to an application made under subsection (2) may, within one month after the publication of the notice in the Gazette, lodge a written objection to the application with the Minister.

(4) The Minister shall, not later than 14 days after receiving an objection under subsection (3), by written notice require the applicant to show cause, within such time as may be specified in the notice, why the objection should not be upheld.

(5) where no objection is lodged under subsection (3), the Minister may grant or refuse the application.

(6) where an objection to an application has been lodged under subsection (3), the Minister shall, after the time limit specified in a notice issued under subsection (4) has elapsed, hear and consider the application and any objection to it and, after making such inquiries as he considers necessary, grant or refuse the application.

(7) The Minister shall specify the grounds for refusing to grant an application or the reason for rejecting any objection lodged against the application, as the case may be.

(8) This section shall not apply to any person farming oysters in a barachois.

11 Authorised fishing implements

(1) Subject to subsection (2) and the other provisions of this Act, no person shall fish with, or have in his possession at sea, any implement other than-

- (a) a hook, lure, fine, rod or reel;
- (b) a fish spear;
- (c) a bait net;
- (d) a basket trap;

- 1. a canard net;
- 2. a carlet net;

(g) a cast net;

(h) a gill net;

(1) a landing net;

(j) a large net;

(k) a shrimp net;

(1) a sardine net.

(2) The Minister may, on the advice of the Board and on such terms and conditions as he thinks fit, authorise the use of any implement for any purpose.

12 Licensing of nets

No person shall have in his possession any net, other than a carlet net or a landing net, unless he holds a licence to that effect.

13 Duties of licensee of net

The licensee of a net shall-

- (a) keep or store the net in such place as may be approved by the Principal Assistant Secretary;
- (b) on demand, produce the net or indicate its location to any officer;
- (c) surrender the net to the Principal Assistant Secretary upon the expiry or revocation of his licence;
- (d) report to the Principal Assistant Secretary any damage to any seal affixed to the net by an officer.

14 Disposal of nets

(1) (a) Subject to paragraph (b), no licensee shall dispose of any licensed net without the written approval of the Principal Assistant Secretary.

(b) No licensee shall replace any licensed net unless-

(1) the net has become unserviceable;

(ii) the net is surrendered to the Principal Assistant Secretary;

(iii) the Principal Assistant Secretary approves the replacement in writing.

(2) The Principal Assistant Secretary shall cause to be destroyed any net which is surrendered to him under subsection (1).

15 Trading restrictions

(i) No person shall, unless he holds a licence to that effect-

(a) import or deal in any net;

(b) manufacture or deal in implements, other than basket traps, fish spears, hooks, fines, rods, reels and lures.

(2) Any person who holds a licence under subsection (1) shall-

(a) keep a register in which he shall daily enter-

(i) every sale or purchase made by him;

(ii) the name and address of every seller or purchaser;

(iii) the description, measurement and number of nets sold or purchased

by him;

(iv) the number and date of issue of the licence held by the seller or purchaser;

(b) not later than 14 days after any sale or purchase, inform the Principal Assistant Secretary in writing of the sale or purchase, giving the particulars specified in paragraph (a).

16 Close periods

(1) No person shall, between sunset and sunrise, fish with or be in possession at sea of a large net or canard net.

(2) No person shall fish with or be in possession at sea of-

(a) a large net or a gill net from 1 October in any year to the last day of February of the year following;

(b) a canard net from-

(i) 1 May to the last day of July in any year;

(ii) 1 October in any year to the last day of February of the year following.

(3) The Principal Assistant Secretary may, subject to such terms and conditions as he thinks fit, authorise fishing with a large net, a canard net or a gill net in any barachois during any close period.

17 Setting and removal of gill nets

No person shall between sunset and sunrise-

- (a) set or remove a gill net at sea;
- (b) displace a gill net after it has been set, except with the approval of the Principal Assistant Secretary;
- (c) beat the surface of the water or make any noise for the purpose of luring any fish to enter a gill net.

18 Fishing with Artificial Light

No person shall fish with the aid of any artificial light except-

- (a) within a barachois of which he is the owner or lessee or with the permission of the owner or lessee;
- (b) for the purpose of capturing undersized crabs to stock a barachois as the Principal Assistant Secretary may approve;
- 1. for the purpose of capturing shrimps with a shrimp net as the Principal Assistant Secretary may approve;
- 2. for the purpose of capturing flying fish outside the reef.

19 Fishing in reserved areas

No person shall-

- (a) fish in a reserved area with a large net, gill net or canard net;
- (b) beat the surface of the water in a reserved area for the purpose of catching any fish or luring any fish to leave the reserved area.

20 Fishing in a pass

No person fishing in a pass shall-

- (a) make use of any net; or
- (b) place in the pass any object likely to cause obstruction to navigation.

21 Prohibition of the use of explosives

No person shall fish with an explosive in, above or near any water within the fishing limits. -

22 Prohibition of underwater fishing

(1) subject to subsection (2), no person shall do any underwater fishing within the fishing limits of Mauritius without the written approval of the Principal Assistant secretary.

(2) The Principal Assistant secretary shall not authorise any underwater fishing except-

- (a) for scientific purposes; or
- (b) for the purpose of capturing aquarium fishes, in accordance with such terms and conditions as he thinks fit to impose.

(3) No person shall import into or manufacture in Mauritius any underwater implement without a licence.

(4) Any officer may seize any fish, other than fish captured with the written approval of the Principal Assistant secretary granted under subsection (2), which he reasonably suspects has been caught by underwater fishing.

(5) No person shall, unless he has a licence to that effect, have in his possession any spear gun.

(6) Any fish seized under subsection (4) may be disposed of as the Principal Assistant secretary may approve.

23 Fishing boats

(1) Any person who owns a fishing boat shall cause it to be registered.

(2) No person shall make use of a fishing boat which-

(a) is not registered;

(b) does not bear any identification badge and any identification mark assigned to it.

24 identification Of fishing boats

(1) The Principal Assistant Secretary shall assign to every registered fishing boat an identification badge and an identification mark.

(2) The owner of a fishing boat shall-

(a) fix to the stem post of the boat any identification badge assigned to the boat;

(b) conspicuously display on both sides of the bow of the boat any identification mark assigned to the boat.

25 Register Of fishing boats

(1) The Principal Assistant Secretary shall keep a register in which shall be entered-

(a) the particulars of even registered fishing boat;

(b) the identification badge and the identification mark assigned to every fishing boat.

(2) Even person who is a party to any sale or transfer of a fishing boat shall, within 14 days after the sale or transfer, give notice thereof to the Principal Assistant Secretary.

(3) Every person who owns a fishing boat shall, within 14 days from the loss or destruction of the boat, give notice thereof to the Principal Assistant Secretary.

26 Power to search boats and vehicles

Any officer may stop and search any fishing boat or vehicle on reasonable suspicion that-

(a) the boat or vehicle is being used or has been used in the commission of an offence under this Act; or

(b) the boat or vehicle is carrying any fish or implement obtained contrary to, or the use or possession of which is prohibited by this Act.

27 Power of entry and search

A Magistrate may, where he is satisfied by information on oath that there is reasonable ground to believe that an offence against this Act has been, is being or is about to be committed, issue a warrant authorising an officer- .

- (a) to enter any fishing boat, land or premises; and
- (b) to search for any fishing boat, fish or implement.

28 Search warrants

Where the Principal Assistant Secretary is satisfied upon sworn information that-

- (a) there is reasonable ground to believe that an offence against this Act has been, is being or is about to be committed; and
- (b) communication with a Magistrate for the purpose of securing a search warrant might cause delay, he may issue a search warrant authorising an officer-

 - (i) to enter any fishing boat, land or premises; or
 - (ii) to search for any fish or implement.

29 Power to arrest and detain

An officer may, without warrant, arrest and detain any person found-

- (a) fishing in breach of this Act;
- (b) in possession of any fish or implement in breach of this Act; or
- (c) selling undersized fish,

unless he gives satisfactory information regarding his name and address and the place of origin of any fish in his possession.

30 Origin or source of fish

Any fisherman or fishmonger found in possession of fish shall, on being required so to do by an officer, furnish the officer with particulars of the origin or source of the fish.

31 Seizure

- (1) An officer may, on reasonable suspicion that a net, an implement or a fishing boat has been or is being used in the commission of an offence under this Act, seize the net, the implement or the boat with all its accessories.
- (2) An officer may seize any fish caught, landed or sold in breach of this Act.

32 Disposal of articles seized

- (1) Any article seized under section 31 shall be returned to its owner, if known, or to the person from whom it was seized if, upon examination, it is found not to have been used in the commission of an offence under this Act.
- (2) Where the owner or person in charge of any article seized under section 32 does not claim the article within 15 days after its seizure, the Principal Assistant Secretary may dispose of the article without any compensation.
- (3) Any fish seized under section 31 may be disposed of as the Principal Assistant Secretary may direct and without any compensation to its owner or to the person from whom it was seized.

33 Things used in commission of offence

Where any net, implement or fishing boat and accessories is used in the commission of an offence under this Act, the owner or the person in charge shall commit the same offence unless he proves-

- (a) that he was not a party or privy to the commission of the offence; and
- (b) that he took all reasonable steps to prevent the use of the net, the implement or the boat by unauthorised persons.

34 Penalties

(1) Subject to subsections (2) and (3), any person who contravenes-

- (a) this Act; or
- (b) any condition imposed in any permit or licence granted under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 12 months.

(2) Any person who contravenes sections 5, 6, 9, 10, 11, 12, 15, 16, 18, 19, 20 and 22 shall, on conviction, be liable in the case of-

- (a) a first conviction, to a fine of not less than 500 rupees and not more than 1,000 rupees and to imprisonment for a term not exceeding 12 months;
- (b) a second or subsequent conviction, to a fine of not less than 1,000 rupees and not more than 2,000 rupees and to imprisonment for a term of not less than 12 months and not more than 3 years.

(3) Any person who contravenes section 21 shall, on conviction, be liable in the case of

- (a) a first conviction, to imprisonment for a term of not less than one year and not more than 5 years together with a fine of not less than 500 rupees and not more than 1,000 rupees; a second conviction, to imprisonment for a term of not less than 2 years together with a fine of not less than 1,000 rupees and not more than 2,000 rupees; and a third or subsequent conviction, to imprisonment for a term of not less than 3 years together with a fine of not less than 2,000 rupees and not more than 5,000 rupees.

(4) The Probation of Offenders Act and sections 152 and 153 and Part XII of the Criminal Procedure Act shall not apply to any penalty under this Act other than a penalty inflicted under subsection (1).

(5) The court may, in addition to any other penalty, order the forfeiture of any implement and any fishing boat, including its accessories, used in the commission of an offence under this Act.

35 The Board

(1) There is established for the purposes of this Act a Fishery Advisory Board.

(2) The Board shall consist of

- (a) The Principal Assistant secretary, Ministry of Fisheries, Cooperatives and Cooperative Development as Chairman;
- (b) a representative of the Attorney-General's Office;

- (c) a representative of the Police Department;
- (d) a representative of the Ministry of Agriculture, Natural Resources and the Environment;
- (e) a representative of the Ministry of Economic Planning & Development;
- (f) a representative of the Ministry of Health;
- (g) a representative of the Ministry of Prices and Consumer Protection;
- (h) a representative of the Ministry for Rodrigues;
- (1) a representative of the Mauritius Fishermen's Cooperative Federation Limited;
- (j) a representative of the distributors of frozen fish;
- (k) a representative of fresh water fish breeders delegated by the Chamber of Agriculture;
- (l) a representative of deep sea fishermen;
- (m) a representative of basket trap fishermen;
- (n) a representative of net fishermen.

(3) Every member specified in subsection (2) other than an ex officio member shall-

- (a) hold and vacate office on such terms as the Minister may determine;
- (b) not be considered as holding a public office by virtue of his appointment.

(4) The composition of the Board shall be published in the Gazette.

36 Functions of the Board

The Board shall-

- (a) advise the Minister on all matters of general policy relating to fisheries;
- (b) inquire and report to the Minister, on such specific matters relating to fisheries as the Minister may refer to it.

37 Meetings of the Board

- (1) The Chairman shall convene a meeting of the Board whenever required to do so in writing by the Minister or by not less than 3 of the members.
- (2) The Chairman shall preside at all meetings but, in his absence, the members present shall elect from among themselves a member to preside at that meeting who shall exercise all the powers of the Chairman.
- (3) The quorum of the Board shall be 7.
- (4) subject to the other provisions of this section, the Board shall regulate its own procedure.

38 Regulations

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Any regulation made under subsection (1) may provide for-

- (a) the levying of fees and charges;
- (b) the grant and revocation of licences;
- (c) measures relating to the furnishing of security for the return of seized articles and equipment.