

LEGAL SUPPLEMENT
To the Government Gazette of Mauritius No. 132 of 24 December 1998
THE FISHERIES AND MARINE RESOURCES ACT 1998

Act No. 22 of 1998

I assent

24th December 1998

C.UTEEM
President of the Republic

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AN ACT

To provide for the management, conservation, protection of fisheries and marine resources, and protection of the marine ecosystems

ENACTED by the Parliament of Mauritius, as follows -

PART I PRELIMINARY

1. Short title

This Act may be cited as the Fisheries and Marine Resources Act 1998.

2. Interpretation

In this Act -

"accessory" means any equipment used on a boat or vessel;

"agent" means a person in Mauritius who is -

- (a) appointed by an owner or operator of a vessel operating under a licence issued under this Act; and
- (b) authorised to receive, and capable of responding to, any legal process issued in Mauritius against his principal;

"bait gear" means a gear used for catching fish to be used as bait on such terms and conditions as the Permanent Secretary may approve and bearing an approved identification mark;

"barachois" means a pond -

- (a) within or adjacent to the sea, and
- (b) enclosed by a weir or dam through which the sea flows and reflows;

"boat" means a raft or watercraft not exceeding 20 metres in length overall used, intended to be used and capable of being used for fishing;

"canard net" means a net -

- (a) which is used in conjunction with a large net for catching mullets; and
- (b) which does not exceed 100 metres in length and 5 metres in width; and
- (c) which is made by several layers of nets fitted with poles to maintain the whole net afloat on the surface of the water; and
- (d) the meshes of any of the layers of which measure not less than 9 centimetres when stretched diagonally;

"carlet net" means a net -

- (a) in the shape of a bag with meshes of any size; and
- (b) the mouth of which is kept open by a hoop not more than one metre in diameter;

"continental shelf" means the continental shelf of Mauritius;

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

"fish" means -

- (a) an aquatic organism, other than a bird; or
- (b) a shell or a coral;

"fish aggregating device" means -

- (a) a device placed in water to attract fish; or
- (b) an object which floats naturally and to which a device has been placed to facilitate its location;

"fish product" means -

- (a) an aquatic organism or part of an aquatic organism; or
- (b) any fresh, prepared, processed or frozen fish products;

"fish farm" means a pond, tank, barachois, a fish hatchery or any other place -

- (a) where fish farming or fish culture is carried out; and
- (b) which has been approved as such under section 10;

"fishing" -

(a) means -

- (i) catching;
- (ii) collecting;
- (iii) killing; or
- (iv) destroying,

a fish by any method; and

(b) includes -

- (i) searching for fish for the purpose of catching, killing or destroying the fish;
- (ii) placing, searching for or retrieving a fish aggregating device;

"fish landing station" means an area so prescribed under section 23 (1);

"foreign boat" means a boat which -

(a) is engaged in fishing; and

(b) has not been registered under section 42;

"foreign vessel" means a vessel other than a Mauritian vessel;

"gear" means a net, a line, a hook, a lure, or a device used for fishing;

"gill net" means a net which -

(a) is set for catching fish;

(b) does not exceed 250 metres in length and 2.5 metres in width; and

(c) is made up of square meshes measuring not less than 11 centimetres when stretched diagonally;

"identification mark" means a mark assigned to a net or fishing boat or gear by the Permanent Secretary;

"implement" means a device 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;

"large net" means a net which -

(a) does not exceed 500 metres in length and 2.5 metres in width; and

(b) is made up of square meshes measuring not less than 9 centimetres when stretched diagonally;

"Mauritian vessel" means a vessel which is wholly owned by -

(a) the State of Mauritius; or

(b) a statutory corporation in Mauritius;

(c) one or more persons who are citizens of Mauritius;

(d) a company, society or other association -

- (i) incorporated or established under the laws of Mauritius; and
- (ii) of which at least 50 percent of the shares carrying voting rights are held by the State of Mauritius, a statutory corporation or a citizen of Mauritius;

"Mauritius waters" includes -

- (a) the territorial waters;
- (b) the exclusive economic zone; and
- (c) areas where Mauritius has traditional or historic rights as may be determined under the Maritime Zones Act;

"Minister" means the Minister to whom the subject of fisheries and marine resources is assigned;

"net" means a net which is used or intended to be used for fishing;

"officer" means -

- (a) a Fisheries Officer;
- (b) a Police Officer;
- (c) a National Coast Guard Officer;
- (d) a Customs Officer;
- (e) a Forest Officer;
- (f) a Health Inspector;
- (g) a Veterinary Officer;
- (h) an Enforcement Officer of the Ministry of Industry and Commerce;
or
- (i) a person appointed by the Permanent Secretary;

"operator" means -

- (a) the master or other individual on board a vessel who is in charge of that vessel; or
- (b) the person in charge of a boat;

"ornamental fish" means live fish kept in an aquarium, a tank, pond or a container for decorative or display purposes and not intended for release;
"owner" in relation to a vessel -

- (a) means a person who owns the vessel; and
- (b) includes -
 - (i) a charterer, whether bareboat, time or voyage; and
 - (ii) a person who acts in the capacity of a charterer;
 - (iii) a party upon whom control over the destination, function or operation of the vessel is conferred under a management agreement or a similar agreement;

"pass" means a passage through the reefs and includes the entrance to any harbour, bay or creek;

"pocket net" means a net -

- (a) not exceeding 15 metres in length and 12 metres in width;
- (b) with 2 arms not exceeding 10 metres each;
- (c) which is made up of square meshes measuring not less than 9 centimetres when stretched diagonally; and
- (d) which is used in conjunction with a large net;

"poisonous substance" means any substance likely to kill, stun or injure any fish or damage or pollute aquatic ecosystems;

"related activity" in relation to fishing, means the operation of a mother ship or vessel in conjunction with fishing operations in order to -

- (a) receive, handle, process, store or transport catches; or
- (b) refuel or supply fishing vessels; or

(c) support fishing operations;

"sell" includes -

(a) hawk;

(b) expose for sale;

(c) keep for sale;

(d) offer for sale; and

(e) convey or consign for the purpose of 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;

"territorial waters" means the territorial waters of Mauritius as defined in the Maritime Zones Act;

"toxic fish" means a fish listed in the Schedule;

"undersized fish" means a fish the size of which is less than the size prescribed for that species of fish;

"underwater fishing" means fishing by diving or with the use of a snorkel, flippers, goggles or similar equipment;

"vessel" means a vessel used for fishing other than a boat;

"wetland" -

(a) means an area of marsh whether -

(i) natural or artificial; or

(ii) permanently or temporarily with water which is static or flowing, brackish, or salty; and

- (b) includes areas of marine water.

PART II MANAGEMENT OF FISHERIES AND MARINE RESOURCES

3. Consultative Committees

(1) The Minister may set up such Consultative Committees as he thinks fit -

- (a) for discussions and advice on matters of general policy relating to fisheries and marine resources;
- (b) for inquiring into matters relating to fisheries and marine resources.

(2) A Consultative Committee shall consist of -

- (a) the Minister, who shall be the Chairperson;
- (b) such other person as the Minister may appoint.

(3) Where the Minister is unable to attend a meeting of the Consultative Committee, he shall designate a member to chair the meeting.

(4) The Chairperson of a Consultative Committee may co-opt at a meeting any person who, in his opinion, may assist the Committee on the subject under deliberation at that meeting.

(5) No member of the Consultative Committee, other than the representative of a Ministry, shall be deemed to hold a public office by virtue only of his appointment as member.

(6) A member of the Consultative Committee shall be appointed by the Minister on such terms and conditions as he may determine.

4. Production of information

(1) The operator of -

- (a) a boat measuring more than 10 metres in length; or

(b) a vessel,

shall keep a record in such form as may be approved by the Permanent Secretary.

(2) An officer may require the operator of a boat or vessel to produce such information as he may require for the purposes of this Act.

(3) Where an operator is required to produce any information under subsection (2), the operator shall submit the information to the officer in an approved form.

(4) Where the operator of a foreign vessel is required to submit information under subsection (2) and that information is not readily available, the operator shall submit an undertaking on an approved form to that effect.

(5) Where an undertaking has been given under subsection (4), the officer shall forward the undertaking to the agent.

(6) The agent shall, within 15 days of receipt of the undertaking, submit the information to the Permanent Secretary on an approved form.

(7) An officer who receives any information under this Act shall not use or disclose those information except for the purposes of this Act.

(8) The Minister may by regulations exempt the operator of a boat of a length of less than 10 metres from the provision of this section.

(9) Any person who contravenes subsection (1) shall commit an offence.

5. Registration of fishermen

(1) Every fisherman shall be registered with the Permanent Secretary.

(2) A fisherman wishing to register himself under subsection (1) shall make an application to the Permanent Secretary in such form as may be approved.

(3) Where an application is made under subsection (2), the Permanent Secretary may register the fisherman subject to such terms and conditions as he may determine.

(4) The Permanent Secretary shall issue to a fisherman registered under this section -

(a) a Fisherman Registration Card;

- (b) a Fisherman Continuous Record Book;
- (c) a Trainee Fisherman Continuous Record Book; or
- (d) such other document as the Permanent Secretary deems fit.

6. Protection of the aquatic ecosystem

(1) No person shall place, throw, discharge or cause to be placed, thrown or discharged into Mauritius waters or into a river, lake, pond, canal, stream or tributary any poisonous substance.

(2) No person shall cut, remove, damage or exploit a mangrove plant or part of a mangrove plant except with the written approval of the Permanent Secretary.

(3) No person shall place, construct or cause to place any structure within Mauritius waters except with the written authorisation of the Permanent Secretary.

(4) Any person who contravenes subsection (1), (2) or (3) shall commit an offence.

7. Marine protected areas

(1) Notwithstanding the Wildlife and National Parks Act 1993, the Minister may by Proclamation declare -

- (a) an area of Mauritius waters including the seabed underlying such waters;
- (b) any land associated with Mauritius waters; or
- (c) any wetland,

to be a Marine Protected Area.

(2) A Marine Protected Area may be designated as -

- (a) a Fishing Reserve;
- (b) a Marine Park; or
- (c) a Marine Reserve.

(3) The Minister may, by regulations, prescribe measures for the protection, conservation and management of a Marine Protected Area, including -

- (a) the prohibition of certain activities;
- (b) the carrying out of certain activities subject to certain conditions.

8. Marine Protected Area Fund

(1) There is established for the purposes of this Act a Marine Protected Area Fund.

(2) The Permanent Secretary shall be responsible for the management of the Fund.

(3) The Fund shall consist of -

- (a) such sums of money as may be appropriated by the National Assembly for any of the purposes of this Act;
- (b) any grant or donation made to the Fund;
- (c) the proceeds of sale of any produce;
- (d) any money that is payable under this Act including all fees, rent and other charges arising from the authorised use of the marine parks and reserves.
- (e) any fee payable in respect of the use of marine resources other than fishing.

(4) The assets of the fund shall be applied towards the payment of expenses which may be incurred in the management of a Marine Protected Area.

9. Conservation measures

(1) The Minister may by regulations prescribe measures for the protection, conservation and management of fisheries and marine resources including -

- (a) the prohibition of fishing by certain means, in certain areas and or during certain periods;
- (b) the prohibition of fishing of a specific -

- (i) species;
 - (ii) size; or
 - (iii) gender,
of fish;
- (c) conditions to be attached to possession, manufacture, purchase of any gear;
 - (d) schemes for setting and allocating quotas and for limiting entry into all or specified fisheries;
 - (e) the prohibition of an activity likely to disturb the marine ecosystems and habitats.

(2) Any person who fails to comply with any regulation made under subsection (1) shall commit an offence.

PART III - FISH FARMING

10. Fish farming

(1) No person shall run a fish farm unless he has an authorisation from the Permanent Secretary.

(2) A person who wishes to run a fish farm shall make an application to the Permanent Secretary in an approved form.

(3) The Permanent Secretary may approve the application on such terms and conditions as he deems fit subject to the applicant being granted, where applicable, an Environment Impact Assessment licence under the Environment Protection Act 1991.

(4) Any person who contravenes subsection (1) shall commit an offence.

11. Registration of fish farm

(1) The owner or lessee of a fish farm shall cause it to be registered with the Permanent Secretary and shall, for the purposes of the registration, provide to the Permanent Secretary -

- (a) a full description of the fish farm;
- (b) the name of the operator, if any; and
- (c) such other particulars as the Permanent Secretary may require.

(2) A person who is a party to a sale or transfer of a fish farm shall, within 14 days after the sale or transfer, give notice of the sale or transfer to the Permanent Secretary.

12. Exemptions

The Minister may, by regulations, provide for the exemption of any fish farm from the requirement of sections 10 and 11 depending on the size and scale of the fish farm.

13. Fishing in fish farms

(1) No person shall fish in any fish farm unless authorised to do so in writing by the owner or lessee.

(2) Notwithstanding section 30(1), the Permanent Secretary may, under such terms and conditions as he may think fit, authorise the use of any net or implement for fishing in a fish farm.

(3) Any person who contravenes subsection (1) shall commit an offence.

14. Management of barachois

(1) The Permanent Secretary may direct the lessee of a barachois to take measures, in accordance with fish farming practices, for the purpose of improving the yield in a barachois.

(2) The lessee of a barachois shall implement any measure which he is directed to take under subsection (1).

15. Disease outbreak

(1) Where there is an outbreak of disease in a fish farm, the owner or lessee of the fish farm shall within 24 hours of the outbreak inform the Permanent Secretary of such outbreak.

(2) The Permanent Secretary may direct the owner or the lessee to take such measures he considers appropriate to control the outbreak and prevent further spread of the disease.

(3) Where the Permanent Secretary is satisfied that a fish farm has been affected by a disease, the Permanent Secretary may direct the owner or lessee to -

- (a) remove and destroy any fish affected by the disease;
- (b) disinfect the fish farm; and
- (c) take such other measures as may be required.

PART IV CONTROL OF FISHING ACTIVITIES

16. Prohibited fishing methods

(1) No person shall -

- (a) fish with a gunny bag, canvas or cloth, creeper, leaf or herb;
- (b) fish with lime and poisonous substance, a speargun or an explosive;
- (c) have in his possession or control an article mentioned in paragraph (a) or (b) for the purposes of fishing;
- (d) have in his possession any speargun or part thereof except with the approval of the Permanent Secretary;
- (d) land, sell or have in his possession any fish which he knows or has reason to believe has been caught by –
 - (i) one of the means or methods set out in paragraphs (a) and (b); or
 - (ii) any other illegal means.

(2) Where an article specified in paragraph (1) (a) and (b) is found on board a fishing boat or vessel, it shall be presumed to be intended for use for fishing.

(3) Any person who contravenes subsection (1) shall commit an offence.

17. Prohibition of underwater fishing

(1) Subject to subsection (2), no person shall carry out underwater fishing without the written authorisation of the Permanent Secretary.

(2) The Permanent Secretary shall not authorise underwater fishing except -

- (a) for scientific purposes; or
- (b) for the purpose of catching ornamental fish; and
- (c) in accordance with such terms and conditions as may be determined by him.

(3) Any person who contravenes subsections (1) and (2) shall commit an offence.

18. Close periods

(1) No person shall fish with, or have in his possession at sea -

- (a) a large net or a gill net from 1 October in a year to the last day of February of the following year;
- (b) a canard net from -
 - (i) 1 May to 31 July in a year;
 - (ii) 1 October in a year to the last day of February of the following year.

(2) Subject to subsection (1), no person shall fish with or have in his possession at sea -

- (a) a large net or canard net between 1800 hours and 0600 hours;
- (b) a gill net between 0600 hours and 1800 hours.

- (3) Subject to subsection (4), no person shall -
 - (a) fish oysters; or
 - (b) have in his possession fresh oysters,

from the 1 October in a year to the last day of March of the following year.

- (4) Subsection (3) does not apply to oysters which are -
 - (a) caught in a fish farm; or
 - (b) imported for sale.

(5) Any person who contravenes subsections (1), (2) and (3) shall commit an offence.

19. Protection of fish

- (1) Subject to subsection (2), no person shall fish -
 - (a) an undersized fish;
 - (b) any crab or lobster in the berried state; or
 - (c) a turtle, turtle egg or a marine mammal.
- (2) The Permanent Secretary may authorise the catching of -
 - (a) any fish specified in subsection (1) or turtle eggs for scientific, reproductive, or any other purpose beneficial to the community;
 - (b) undersized fish by the owner or lessee of a barachois or fish farm for stocking the barachois or fish farm;
 - (c) undersized fish specified in the Schedule for use as bait.

(3) Any person who contravenes subsection (1) shall commit an offence.

20. Restriction on landing and sale of fish

(1) Subject to subsection (2), no person shall land, have in his possession for purposes of sale or supply, or sell or offer for sale -

- (a) any toxic fish or any part thereof;
- (b) any fish, or fish product, which is unfit for human consumption;
- (c) any turtle whether dead or alive, or part of a turtle, turtle eggs, stuffed turtle;
- (d) any marine mammal or part of a marine mammal;
- (e) any undersized fish;
- (f) any crab or lobster in the berried state.

(2) The Permanent Secretary may issue prior authorisation for the capture and landing of any fish specified in subsection (1) (a) to (1) (e) for scientific purposes.

(3) Where an officer is satisfied that subsection (1) has been contravened, he shall order the items the subject matter of the contravention to be forfeited.

(4) Where an officer is satisfied that any fish which is being sold or offered for sale or supplied is unsuitable for human consumption he shall order the fish to be seized and destroyed.

(5) The owner of any fish forfeited under subsection (3) or destroyed under subsection (4) shall not be entitled to any compensation.

(6) Any person who contravenes subsection (1) shall commit an offence.

21. Fishing with the aid of artificial light

(1) Subject to subsection (3), no person shall fish with the aid of any artificial light except with the approval of the Permanent Secretary.

(2) The Permanent Secretary shall not issue an authorisation except -

- (a) to the owner or lessee of a fish farm for the purpose of fishing in the fish farm;
- (b) for the purpose of catching undersized crabs to stock a barachois or fish farm under such terms and conditions as may be specified in the licence;

(c) for the purpose of catching fish to be used as bait, the quantity of which shall not exceed such amount as may be specified in the licence;

(d) for the purpose of catching shrimps with a shrimp net.

(3) A person may fish with artificial light within a barachois or fish farm of which he is the owner or lessee or with the permission of the owner or lessee.

(4) Any person who contravenes subsection (1) shall commit an offence.

22. Fishing in pass

(1) No person shall -

(a) make use of a net in a pass; or

(b) place in a pass any object likely to cause obstruction to navigation.

(2) Any person who contravenes subsection (1) shall commit an offence.

23. Fish landing station

(1) The Minister may prescribe an area near the shore as a fish landing station.

(2) No fisherman shall land fish at a place other than a fish landing station.

(3) Any person who lands fish at a fish landing station shall -

(a) where requested by an officer, cause the fish to be weighed;

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

(c) not expose the fish to rain, sun or flies and other unhygienic conditions.

(4) Any person who contravenes subsection (2) or (3) shall commit an offence.

24. Origin and sale of fish

(1) A person found in possession of fish shall, on being required to do so by an officer, furnish the officer with particulars of the origin or source of the fish.

(2) Subject to subsection (3), no person shall sell or have in his possession for sale any fish unless he holds a fishmonger's licence.

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

(4) No person shall purchase fish from a fisherman for the purpose of sale at a place other than a fish landing station.

(5) No fishmonger who purchases fish from a fisherman shall refuse to sell fish at a fish landing station.

(6) Any person who contravenes subsection (2), (4) or (5) shall commit an offence.

PART V RESTRICTION ON IMPORT AND EXPORT

25. Restriction on importation of fish and fish products

(1) No person shall import into Mauritius any fish or fish product except with the approval of the Minister on such terms and conditions as he may determine.

(2) No person shall import into Mauritius any turtle egg, marine mammal or part of a turtle whether dead or alive or stuffed.

(3) Where an officer is satisfied that any fish or fish product which has been imported is unsuitable for human consumption, he shall cause the fish or the fish product to be forfeited and destroyed.

(4) The owner of any fish or fish product destroyed under subsection (3) shall not be entitled to any compensation.

(5) Any person who contravenes subsection (1) or (2) shall commit an offence.

26. Import of live fish

(1) Notwithstanding subsection 25 (1), the Minister may authorise the importation into Mauritius of fish intended for release or for ornamental purposes.

(2) No fish imported under subsection (1) shall be released except with the written approval of the Permanent Secretary.

(3) The Permanent Secretary shall not give his approval under subsection (2) unless the fish has been kept under observation and control for such period and on such terms and conditions as he thinks fit.

(4) Where the Permanent Secretary is satisfied that any fish which has been introduced into Mauritius is unsuitable for the purpose of release or for ornamental purposes, he may order the fish to be forfeited and destroyed.

(5) The importer of any fish destroyed under subsection (4) shall not be entitled to any compensation.

(6) Any person who contravenes subsection (2) shall commit an offence.

27. Export of fish and fish products

(1) No person shall export from Mauritius any fish or fish product except with the approval of the Minister.

(2) No person shall handle, store or process any fish or fish product for the purpose of export except with the approval of the Permanent Secretary.

(3) An approval under subsection (1) or under subsection (2) may be granted subject to such terms and conditions as may be determined by the Minister or the Permanent Secretary, respectively.

(4) Any person who contravenes subsection (1) or (2) shall commit an offence.

28. Restriction on importation and manufacture of implement

(1) No person shall manufacture, import, sell or supply any article specified in subsection (2) except with the approval of the Permanent Secretary.

(2) Subsection (1) shall apply to -

- (a) a net or part of a net;
 - (b) an implement or part of an implement other than a basket trap, a fish spear, a hook, a line, a rod, a reel and a lure.
- (3) A licensee under subsection (1) shall -
- (a) keep a register in which he shall forthwith enter particulars of every sale or purchase of nets made by him including -
 - (i) the name and address of every seller or purchaser of nets;
 - (ii) the description, measurement and number of nets sold or purchased by him;
 - (iii) the number and date of issue of the licence held by the seller or purchaser of nets;
 - (b) not later than 14 days after any sale or purchase of nets, submit to the Permanent Secretary, in writing, the particulars specified in paragraph (a).
- (4) Any person who contravenes subsection (1) or (3) shall commit an offence.

29. Import of fishing vessel

No person shall import into Mauritius any fishing vessel or boat for purposes of fishing except with the approval of the Permanent Secretary on such terms and conditions as he may determine.

PART VI LICENSING

SUB-PART A NETS AND IMPLEMENTS

30. Licences

(1) Subject to subsection 13 (2), no person shall, without a licence, use or have in his possession -

- (a) a bait gear;
- (b) a canard net;
- (c) a gill net;
- (d) a large net;
- (e) a basket trap; or
- (f) a shrimp net.

(2) Notwithstanding subsection (1), no licence shall be required in respect of the basket trap which has meshes of a size which allows a cylinder measuring not less than 4 centimetres in diameter to pass through.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

31. Application for licence

(1) A person who wishes to operate a gear or implement for which a licence is required under section 30 (1) shall make a written application to the Permanent Secretary.

(2) Upon receipt of an application under subsection (1), the Permanent Secretary may request the applicant to furnish such particulars as he may think fit.

(3) Where the Permanent Secretary is satisfied that a licence may be issued, he may, subject to subsection (5), issue the licence on payment of the prescribed fee.

(4) A licence issued under subsection (3) shall -

- (a) be in the prescribed form; and
- (b) be subject to such terms and conditions as the Permanent Secretary thinks fit.

(5) The Permanent Secretary shall not issue to any person a licence for a large net and a gill net concurrently.

32. Limitation on number of licences

(1) Subject to subsection (2), the Permanent Secretary shall not at any time licence the use of more than -

- (a) 10 large nets, 10 canard nets, and 10 gill nets and 100 shrimp nets in the lagoon of the island of Mauritius;
- (b) 8 large nets, 8 canard nets and 15 shrimp nets in the lagoon of the island of Rodrigues;
- (c) 2 large nets in the lagoon of the island of Agalega.

(2) Where a person who is the holder of a licence at the commencement of this Act applies, on the expiry of the licence, for a licence under this Act, the Permanent Secretary may grant the licence notwithstanding that the limits specified in subsection (1) may thereby be exceeded.

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

33. Licence not transferable

(1) A licence issued under Sub-Part A of Part VI shall not be transferable.

(2) Where a licensee -

- (a) dies; or
- (b) in the case of a body corporate, the body corporate is wound up,

the licence shall lapse, and any fishing net in respect of which the licence was issued shall forthwith be surrendered to the Permanent Secretary for safe keeping until disposal.

34. Possession of unauthorised or prohibited implements

(1) No person shall have in his possession a net or an implement which is intended to be used for fishing and for which no licence has been issued by the Permanent Secretary.

(2) Where an implement -

- (a) for which a licence is required and for which no licence has been issued; or

(b) which is prohibited from use for fishing,

is found on board a fishing boat or vessel or vehicle, it shall be presumed to be intended for use for fishing.

(3) Subsection(1) shall not apply to a licence holder licensed under Sub-Part B of Part VI of this Act.

(4) Any person who contravenes subsection (1) shall commit an offence.

35. Duties of licensee of a net

The licensee of a net shall -

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

36. Disposal of licensed nets

(1) No licensee shall dispose of any licensed net or part thereof without the written approval of the Permanent Secretary.

(2) No licensee shall replace any licensed net or part thereof unless -

- (a) the net has become unserviceable;
- (b) the net is surrendered to the Permanent Secretary; and
- (c) the Permanent Secretary approves the replacement in writing.

- (3) The Permanent Secretary may cause to be destroyed any net which is surrendered to him under subsection (2)(b).

SUB-PART B - BOAT AND VESSEL

37. Licence issued to foreign vessel engaged in fishing

(1) No person shall use a foreign vessel or foreign boat for fishing or any related activity within Mauritius waters except under a licence issued under this section.

(2) No person shall use a foreign vessel or foreign boat for fishing of sedentary species on the continental shelf except under a licence issued under this section.

(3) An application for a licence under this section shall be made to the Minister on such form as may be approved by the Permanent Secretary.

(4) The Minister may, on such terms and conditions as he thinks fit and subject to the approval of the Prime Minister, issue a licence for the use of a foreign vessel or foreign boat for the purpose of fishing within Mauritius waters or on the continental shelf.

(5) A licence issued under this section shall be in a prescribed form.

(6) Any person who contravenes subsection (1) or (2) shall commit an offence.

(7) Any person who fails to comply with any condition of a licence issued under section 37 shall commit an offence.

38. Licence and international agreement

(1) Subject to subsection (2), a licence to fish within the Mauritius waters shall not be issued under this section unless there is an agreement -

- (a) between the Government of Mauritius and the State in which the vessel or boat is registered;
- (b) between the Government of Mauritius and an intergovernmental organization to which the State, in which the vessel or boat is registered, has delegated the power to negotiate fishing agreements; or

- (c) between the Government of Mauritius and a fishing association of which the owner or charterer of the vessel or boat is a member.

(2) In the absence of an agreement referred to in subsection (1), the Minister may issue a licence under this section if the applicant provides such financial or other guarantees as he may determine.

39. Licence issued to a Mauritian vessel or boat

(1) Subject to subsection (2) and the Maritime Zones Act, no person shall use a Mauritian vessel or boat for fishing or a related activity -

- (a) within Mauritius waters or the continental shelf;
- (b) in any fishery on the high seas; or
- (c) within the fishing zone of a foreign State,

except under a licence issued under this section.

(2) The Minister may exempt a category of boats from the requirements of subsection (1) subject to such conditions as may be prescribed.

(3) An application for a licence under this section shall be made to the Minister in such form as may be approved by the Permanent Secretary.

(4) A licence issued under this section shall be in a prescribed form.

(5) The Minister shall not issue a licence under this section unless he is satisfied that -

- (a) in the case of a vessel, the vessel is a Mauritian vessel;
- (b) in the case of a boat, the boat is registered under section 42;
- (c) the applicant has satisfied such conditions as may be prescribed by regulations.

(6) Any person who contravenes subsection (1) shall commit an offence.

(7) Any person who fails to comply with a condition of a licence issued under this section shall commit an offence.

40. Conditions of licences

(1) A licence issued under Sub-Part B of Part VI shall be subject to such conditions as the Minister thinks fit including conditions relating to -

- (a) the type and method of fishing or other activity authorized;
- (b) the areas within which such fishing or other activity is authorized;
- (c) the species and amount of fish, authorized to be taken, including any restriction on by-catch.

(2) No licence shall be issued unless the prescribed fee has been paid.

41. Validity

(1) Subject to section 61, a licence issued under Sub-Part B of Part VI shall be valid for such period as may be specified in the licence, but shall not exceed one year.

(2) The Minister may, on renewal of a licence -

- (a) attach fresh conditions to the licence; or
- (b) vary its conditions.

(3) Where a Mauritian vessel ceases to be registered under the Merchant Shipping Act 1986, any licence issued under this part shall lapse.

(4) A licence issued under Sub-Part B of Part VI shall not be transferable.

PART VII OBLIGATIONS RELATING TO BOATS AND VESSELS

42. Registration of boats

(1) A person who owns a boat shall cause it to be registered with the Permanent Secretary.

(2) No person shall use a boat which -

- (a) is not registered; and
- (b) does not bear an identification mark.

(3) No person shall modify the size of a registered boat without the written approval of the Permanent Secretary.

(4) The Permanent Secretary shall keep a register in which shall be entered -

- (a) the identification mark assigned to every boat;
- (b) the name and address of the owner; and
- (c) such other particulars as he thinks fit.

(5) A person who is a party to a sale or transfer of a boat shall, within 14 days after the sale or transfer, give notice of the sale or transfer to the Permanent Secretary.

(6) Where a boat is lost or is destroyed, the owner of the boat shall, within 7 days, give notice of the loss or destruction to the Permanent Secretary.

(7) The initial registration, or the registration of a sale, transfer and modification shall be subject to payment of a prescribed fee.

(8) Any person who contravenes subsection (2) shall commit an offence.

43. Identification of fishing boats

(1) The Permanent Secretary shall assign to every registered boat an identification mark.

(2) The owner of a boat shall display its identification mark on both sides of the boat in such a manner as may be approved by the Permanent Secretary.

(3) Any person who contravenes subsection (2) shall commit an offence.

44. Stowage

(1) Subject to subsection (2), a foreign vessel or foreign boat which is not licensed under section 37 shall keep its gear stowed while it is within the Mauritius waters.

(2) A foreign vessel or foreign boat that is licensed under section 37 shall keep its gear stowed while it is in a place where it is not licensed to fish.

(3) Any person who contravenes subsection (1) or (2) shall commit an offence.

45. Landing

(1) A Mauritian vessel or boat licensed under section 39 shall land its catch within the limits of Port Louis harbour or such other fish landing station as may be specified in the licence.

(2) Notwithstanding subsection (1), the Minister may, subject to such terms and conditions as he may determine, authorise a Mauritian vessel or boat licensed under section 39 to land fish at a place other than one mentioned in subsection (1).

46. Inspection of vessel

The Permanent Secretary may authorise a person to board and remain on a vessel for such period as he thinks fit for the purpose of inspection, of collecting information or any other purpose in relation to fishing activities and fisheries resources.

47. Trans-shipment

(1) The Minister may make regulations in respect of the -

- (a) trans-shipment of fish or fish product;
- (b) transport of fish or fish product caught in the Mauritius waters; and
- (c) operation of a fishing base for fishing within the Mauritius waters.

(2) Regulations made under subsection (1) may provide for the levying of fees and charges.

48. Departure of Mauritian fishing vessels

(1) The master of a Mauritian vessel engaged in fishing shall, at least 3 days prior to leaving port for a fishing trip -

- (a) inform the Permanent Secretary of the intended date and time of departure of the vessel; and
- (b) comply with such conditions as may be determined by the Permanent Secretary;
- (c) submit such documents as may be required by the Permanent Secretary.

(2) A fisherman engaged to work on a vessel referred to in subsection (1) shall be the holder of a Fishermen Continuous Records Book.

(3) The master of a vessel referred to in subsection (1) may, subject to subsection (4), enlist such number of trainee fishermen as may be prescribed by regulations.

(4) No trainee fisherman enlisted under subsection (3) shall stay at sea for a cumulative period of more than 6 months.

(5) A vessel referred to in subsection (1) shall not leave the port with any fish on board unless it has been so authorised by the Permanent Secretary.

(6) The Permanent Secretary may object to the departure of a vessel where he has reason to believe that any of the provisions of subsections (1) to (5) have not been complied with.

49. Arrival of Mauritian fishing vessels or boats

(1) The master of a Mauritian vessel or boat licenced under section 39 shall, 2 days prior to reaching Port-Louis harbour or such other landing station as may be specified in the licence, inform the Permanent Secretary of the expected time of arrival of the vessel or boat in Port Louis or such other landing places.

(2) On reaching Port Louis or such other landing places as may be specified in the licence, the master shall immediately submit to the Permanent Secretary -

- (a) a report on the species composition of the catch;
- (b) information relating to the origin of the catch, the catch and effort in accordance with the approved log sheets;

(c) any other information that may be required by the Permanent Secretary.

(3) The master shall -

(a) produce to the officer, the log book of the vessel or boat for examination;

(b) make its catch available to the officer for verification and sampling.

(4) Where the Permanent Secretary is satisfied that subsections (1) to (3) have been complied with he shall issue a fish landing permit.

50. Register of fishing vessels and boats

(1) The Permanent Secretary shall keep a register of fishing vessels and boats licensed under section 37 and section 39.

(2) The register shall contain -

(a) the name of the vessel or boat;

(b) the international radio call sign;

(c) the country of registration;

(d) the length overall;

(e) the net registered tonnage;

(f) the gross tonnage;

(g) the material of build;

(h) the vessel type and fishing method;

(i) the hold capacities in cubic meters;

(j) the date of build;

(k) the number of crew including fishermen and persons commonly known as "frigoboy"; and

(l) the name and address of the owner, manager or agent.

PART VIII
ENFORCEMENT

51. Warrant to enter and search

(1) A Magistrate may, where he is satisfied by information upon 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 to enter and search any boat, fishing vessel, or premises.

(2) Where the Permanent Secretary is satisfied by information upon oath 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 may cause delay,

he may issue a search warrant authorising an officer to enter and search any boat, fishing vessel, or premises.

52. Liability of owners of implements used in commission of offences

(1) Where a vehicle, net, fishing implement, or other accessory is used in the commission of an offence under this Act, the owner shall be deemed to have committed the 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 vehicle, net, fishing implement, or other accessory.

(2) Where a vessel or boat, is used in the commission of an offence under this Act, the owner, in addition to the master, shall be deemed to have committed the 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 vessel or boat.

53. Power of search and seizure

(1) Where an officer has reasons to believe that an offence under this Act has been, is being or is about to be committed, and considers that it would be impracticable to apply for a warrant the officer may, without a warrant -

- (a) stop, board and search -
 - (i) a boat or vessel within the Mauritius waters;
 - (ii) a Mauritian vessel outside the Mauritius waters;
- (b) stop and search any vehicle;
- (c) require to be produced, examine and take copies of any licence, log book or other document required to be kept under this Act;
- (d) require to be produced and examine any fishing net, other gear, any fish or other aquatic organism;
- (e) seize -
 - (i) a vehicle;
 - (ii) a vessel;
 - (iii) a boat;
 - (iv) a net;
 - (v) an implement;
 - (vi) a gear; or
 - (vii) an accessory.

(2) A fishing vessel or boat seized under subsection (1)(e) shall be taken to Port Louis, or to another suitable port of Mauritius together with all the persons employed on the vessel or boat.

54. Power to arrest and detain

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

- (a) fishing in breach of this Act;
- (b) in possession of any fish or implement, or selling any fish caught, in breach of this Act, unless the person gives his name and address and a satisfactory explanation regarding the origin of any fish in his possession.

55. Seizure of fish

An officer may seize -

- (a) any fish caught, landed, sold or stored;
- (b) any fish product landed, sold or stored,

in breach of this Act.

56. Duty of officer

An officer shall, in the exercise of his powers under this Act, produce on request such means of identification as shall be determined by the Permanent Secretary for the purposes of enforcing this Act.

57. Pursuit beyond Mauritius waters

(1) Subject to subsection (2), where a vessel or boat is pursued within Mauritius waters on reasonable suspicion of having committed an offence under this Act and the pursuit extends beyond Mauritius waters and the powers conferred to an officer by sections 52 to 54 shall be exercisable in respect of such vessel beyond Mauritius waters.

(2) The powers conferred to an officer by subsection (1) shall cease when the vessel or boat enters the territorial sea of another state.

58. Custody and disposal of seized articles

(1) An article seized under section 53 (1)(e) shall be delivered to the Permanent Secretary who shall forthwith return the article to the person from whom it was seized where -

- (a) no criminal proceedings for any offence under this Act are instituted; or
- (b) upon examination, it is found not to have been used in the commission of an offence under this Act.

(2) Notwithstanding subsection (1), the owner or the person from whom the article was seized may apply to the Judge in Chambers for an order for the release of the article.

(3) On an application under subsection (2), the Judge in Chambers may grant an order for the release of the article subject to the provision of such security and to such conditions as the Judge may determine.

59. Disposal of fish

Any fish or fish product seized under this Act may be disposed of as the Permanent Secretary may direct and without payment of any compensation to its owner or to the person from whom it was seized.

60 Application of the Public Officers Protection Act

The Public Officers Protection Act shall apply to anything done under this Act notwithstanding the fact that the act was done outside Mauritius waters.

61. Suspension and cancellation

(1) Subject to subsection (2), the Minister may suspend or cancel any licence issued under this Act where -

- (a) the boat, vessel, implement or gear, in respect of which the licence was issued, has been used in contravention of -
 - (i) this Act;
 - (ii) any regulations made under this Act;
 - (iii) any law in force in Mauritius; or
 - (iv) any condition of the licence;

- (b) the licensee has been engaged in any activity in contravention of -
 - (i) this Act;
 - (ii) any regulations made under this Act; or
 - (iii) any condition of the licence;
- (c) the sustained utilisation of any species of fish or marine fisheries in general is threatened.

(2) The Minister shall not suspend or cancel a licence under subsection (1) unless he is satisfied that -

- (a) such suspension or cancellation is necessary and expedient; and
- (b) the need for any suspension or cancellation outweighs any hardship caused to the licensee.

PART IX

PENALTIES

62. Offences and penalties

(1) A person who contravenes sections 4, 10, 13, 23, 24 or 42 shall, on conviction, be liable –

- (a) in the case of a first conviction, to a fine of not less than 2,000 rupees and not more than 3,000 rupees;
- (b) in the case of a second conviction, to a fine of not less than 3,000 rupees and not more than 4,000 rupees;
- (c) in the case of a third or subsequent conviction, to a fine of not less than Rs 4,000 and not more than 5,000 rupees.

(2) A person who contravenes sections 6, 16, 17, 18, 19, 20, 21, 22, 30 or 34 shall , on conviction, be liable –

- (a) in the case of a first conviction, to a fine of not less than 2,000 rupees and not more than 3,000 rupees and to imprisonment for a term not exceeding 2 years;
- (b) in the case of a second conviction, to a fine of not less than 3,000 rupees and not more than 5,000 rupees and to imprisonment for a term not exceeding 5 years;
- (c) in the case of a third or subsequent conviction, to a fine of not less than 5,000 rupees and not more than 10,000 rupees and to imprisonment for a term not exceeding 8 years.

(3) A person who contravenes sections 25, 27 or 28 shall, on conviction, be liable—

- (a) in case first of a first conviction, to a fine of not less than 5,000 rupees and not more than 10,000 rupees;
- (b) in case first of a second conviction, to a fine of not less than 10,000 rupees and not more than 15,000 rupees and to imprisonment for a term not exceeding 5 years;
- (c) in case first of third and subsequent conviction, to a fine of not less than 15,000 rupees and not more than 20,000 rupees and to imprisonment for a term not exceeding 5 years.

(4) A person who commits an offence under this Act for which no penalty has been provided shall, on conviction, be liable to a fine of not less than 2,000 rupees and not more than 50,000 rupees and to imprisonment for a term of not more than 2 years.

63. Forfeiture

(1) Subject to subsection (2), where a person is convicted of an offence under this Act, the court may, in addition to any other penalty -

- (a) order the forfeiture of -
 - (i) a vehicle;
 - (ii) a vessel;
 - (iii) a boat;

(iv) a net; or

(v) a fishing implement;

(vi) any article,

used in the commission of the offence under this Act;

(b) order the forfeiture of any fish caught in breach of the Act.

(2) The Court may, instead of ordering the forfeiture as provided under subsection (1), order that any item referred to in subsection (1) be kept by the Permanent Secretary until the fine imposed is paid.

64. Penalty for an offence under section 37

(1) A person who commits an offence under section 37 (6) shall, on conviction, be liable to a fine of not less than one million rupees and not more than 5 million rupees.

(2) Any person who commits an offence under section 37 (7) shall, on conviction, be liable to a fine of not less than 250,000 rupees and not more than 5 million rupees.

65. Penalty for an offence under section 39

(1) A person who commits an offence under section 39 (6) shall, on conviction be liable to a fine of not less than 50,000 rupees and not more than 250,000. rupees.

(2) A person who commits an offence under section 39 (7) shall, on conviction, be liable to a fine of not less than 25,000 rupees and not more than 150,000 rupees.

66. Higher penalty for breach of section 20

Notwithstanding section 62, where a person who holds a licence under section 37 or 39 is convicted of an offence under section 20 (1) he shall be liable to a fine of not less than 50,000 rupees and nor more than 250,000 rupees.

67. Penalty for breach of section 44

A person who commits an offence under section 44 shall, on conviction, be liable to a fine of not less than 250,000 rupees.

68. Breach of management measures in outside territorial waters

Notwithstanding section 62, a person who commits a breach of a conservation measure prescribed under section 9 within Mauritius waters, other than the territorial waters, shall, on conviction, be liable to a fine of not less than 50,000 rupees and not more than 250,000 rupees.

69. Offence committed under subsection 16 (1) outside territorial waters

Notwithstanding section 62, a person who commits an offence under section 16 (1) within Mauritius waters, other than the territorial waters shall, on conviction, be liable to a fine of not less than 50,000 rupees and not more than 200,000 rupees.

70. Possession of fish caught outside territorial waters

Notwithstanding section 62, a person who, in breach of this Act -

- (a) lands;
- (b) sells;
- (c) receives for sale; or
- (d) has in his possession for sale,

any fish caught in the Mauritius waters other than the territorial waters, shall commit an offence and on conviction, shall be liable to a fine of not less than 50,000 rupees and not more than 200,000 rupees.

71. Giving false information

A person who -

- (a) is required to supply information under section 4 of this Act; and
- (b) knowingly -
 - (i) fails to supply such information; or
 - (ii) furnishes false or misleading information,

shall commit an offence and on conviction, shall be liable to a fine of not less than 20,000 rupees and not more than 50,000 rupees.

PART X

MISCELLANEOUS

72. Jurisdiction

(1) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate -

- (a) shall have jurisdiction to try an offence under this Act; and
- (b) may impose any penalty provided by this Act.

(2) The Intermediate Court shall have jurisdiction to try an offence under this Act.

(3) Section 153 of the Criminal Procedure Act shall not apply to a conviction for an offence under this Act.

73. Regulations

(1) The Minister may make regulations generally for the implementation of this Act, and in particular for the purposes of -

- (a) delimiting areas within Mauritius waters which shall be reserved for fishing by Mauritian vessels or boats;
- (b) prescribing any fish which may be toxic;
- (c) prescribing measures for the registration of fishermen;
- (d) prescribing the form and content of licences and the procedure for their issue, cancellation and revocation;
- (e) prescribing measures relating to the furnishing of security for the return of any article seized;
- (f) requiring a fishing vessel or boat to be equipped with specified communications, position fixing and other equipment;
- (g) prescribing measures for the protection, conservation and management of marine protected areas;

- (h) the levying of fees and charges;
- (i) providing for safety and security measures for fishermen and contravention in case of non compliance with those measures;
- (j) regulating the use of fish aggregating devices and regulating fishing around them;
- (k) regulating sports and recreational fishing activities;
and
- (l) regulating handling, storage and sale of fresh, frozen and chilled fish;
- (m) prescribing any other matter relating to fisheries for the purposes of this Act.

(2) Regulations made under this Act may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 2 years.

74. Transitional provisions

A permit or licence issued under the Fisheries Act 1980 shall be deemed to have been issued under this Act.

75. Repeal

The Fisheries Act 1980 is repealed.

76. Commencement

(1) This Act shall come into operation on a day to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different provisions of this Act.

Passed by the National Assembly on the twenty-fourth day of November one thousand nine hundred and ninety-eight.

ANDRE POMPON
Clerk of the National Assembly

SCHEDULE
(section 19(2))

Undersized fish that may be used as bait

Fish

(a) *Mugil sp. & Vala Mugil spp.*

(b) *Parupeneus spp.*

(c) *Upeneus spp.*

(d) *Mulloidides spp.*

Commonly known as

Mullet

Rouget