

[L.S.]

I ASSENT,

D. K. H. DALE,

Governor-in-Council

17th December, 1982.

**MONTSERRAT****NO. 18 OF 1982**

AN ORDINANCE TO MAKE PROVISION FOR THE PROMOTION AND REGULATION OF FISHING AND FISHERIES INDUSTRIES IN MONTSERRAT AND ITS FISHERY LIMITS AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council of Montserrat, and by the authority of the same as follows:—

**Part I — General**

1. This Ordinance may be cited as the Fisheries Ordinance, 1982, and shall come into operation on such date as the Governor-in-Council may by proclamation appoint.

Short Title and  
Commencement.

2. In this Ordinance, unless the context otherwise requires —

Interpretation.

“authorized officer” means the Fisheries Officer, a Police Officer, any Customs Officer, the Master of any vessel and any other person appointed by the Minister to be an authorized officer for the purposes of this Ordinance;

“fish” when used as a noun means any aquatic animal, whether piscine or not, and includes shell-fish, sponges, holothurians (beche de mer), sea urchins, crustaceans and turtles and their eggs;

“fish” when used as a verb means attract, pursue, catch, take or kill fish by any method;

“fish processing” includes preserving or preparing fish or producing any substance or article from fish by any method;

“fish processing establishment” means any land, vessel, premises or other place on or in which fish are processed to be sold outside Montserrat but does

limits of Montserrat except under a valid permit granted under this section in respect of that vessel and in accordance with the conditions of such permit shall be liable on summary conviction to a fine of \$1000 or to imprisonment for 6 months.

Cancellation  
and suspension  
of permits.

5. (1) Where any of the conditions of any permit is contravened the Fisheries Officer may cancel such permit, or suspend such permit for such period as he may think fit.

(2) Any person aggrieved by the refusal of any Fisheries Officer to issue any permit under this Ordinance, or by the cancellation or suspension of any permit granted under this Ordinance, may appeal against such refusal, cancellation or suspension to the Governor-in-Council, whose decision shall be final.

### **Part III - Licences for Foreign Fishing Vessels and Fish Processing Establishments**

Entry and fishing  
by foreign  
vessels within  
the fishery  
limits.

6. (1) No foreign fishing vessel shall -
- (a) enter within the fishery limits except for a purpose recognized by international law;
  - (b) fish or attempt to fish within the fishery limits;
  - (c) load, unload or tranship any fish within the fishery limits; or
  - (d) load or unload any fuel or supplies within the fishery limits;

unless authorized to do so under a licence granted under this Ordinance.

(2) A foreign fishing vessel entering the fishery limits for a purpose recognized by international law without a licence granted under this Ordinance shall return outside those limits as soon as the purpose for which it entered them has been fulfilled.

(3) The Governor-in-Council may grant a licence in the prescribed form in respect of any foreign fishing vessel, authorizing such vessel to do such of the things described in subsection (1) as may be provided for in the licence.

(4) Any licence granted by the Governor-in-Council under this section shall be subject to -

- (a) such conditions as may be prescribed, and such

further conditions as may be endorsed upon the licence by the Governor-in-Council; and

- (b) the payment of such fees and royalties as may be determined by the Governor-in-Council.

(5) A licence granted by the Governor-in-Council under this section shall not confer any exclusive right to fish unless the licence expressly so provides.

(6) The fishing gear of any foreign fishing vessel which is prohibited by this section from fishing within the fishery limits shall, while the vessel is within those limits, be stowed in such manner as may be prescribed.

7. (1) Where any foreign fishing vessel contravenes any of the provisions of Section 6, the master, owner and charterer, if any, of such vessel shall each be liable on summary conviction –

Penalties for  
unlicensed  
fishing

- (a) in the case of a contravention of subsection (1) of Section 6 to a fine of \$100,000; and
- (b) in the case of a contravention of subsection (2) or subsection (6) of Section 6 to a fine of \$25,000.

(2) Where any foreign fishing vessel contravenes any of the conditions of a licence granted under Section 6, the master, owner and charterer, if any, of such vessel shall each be liable on summary conviction to a fine of \$25,000.

8. (1) The Governor-in-Council may on payment of the prescribed fee grant to any person a licence in the prescribed form to operate a fish processing establishment subject to such conditions as may from time to time be prescribed and to such further conditions as may be endorsed upon the licence by the Governor-in-Council.

Fish processing  
establishments.

(2) Any person who operates or causes or allows to be operated any fish processing establishment except under a licence granted under this section in respect of that establishment and in accordance with the conditions of such licence shall be liable on summary conviction to a fine of \$2,000 and to imprisonment for 6 months.

#### **Part IV – Powers of Authorized Officers**

9. For purposes of ascertaining whether there is, or has been, any contravention of the provisions of this Ordinance, any Authorized Officer may without warrant –

Power to stop  
board, search  
etc. vessels

police officer, or in the absence of a police officer, shall take such person to the nearest police station;

- (ii) in the case of an offence against Sections 6(1), 14 or 15(1) seize any vessel (together with its equipment, stores and cargo) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed;
- (iii) seize any fishing gear, instruments, appliances which he believes have been used in the commission of such offence;
- (iv) seize any fish which he believes have been taken or fish product he believes has been produced in the commission of such offence;
- (v) seize any explosive, poison, or other noxious substance which he believes has been used, carried, possessed or controlled in contravention of Section 15.

(2) After any vessel has been stopped under the provisions of this Section any authorized officer may exercise concerning it, or in relation to any fish or fish products found therein, any of the powers conferred by paragraph (d) of Section 9.

(3) A written receipt shall be given for any thing seized under subsection (1) by the officer concerned to the person from whom the seizure is made.

11. Any person who —

- (a) wilfully obstructs any authorized officer in the exercise of his powers under this Ordinance; or
- (b) fails to comply with any lawful requirement imposed by any authorized officer under this Ordinance,

Obstruction.

shall be liable on summary conviction to a fine of \$1000 or to imprisonment for 6 months, and if the obstruction or non-compliance takes place on board or alongside a vessel, the master of the vessel shall be liable on summary conviction to a like penalty.

12. Any authorized officer acting in the exercise of his powers under this Ordinance shall on demand, produce such document of identification or other evidence as may

Authorized officers to declare office, etc.

- (b) where no such presumption arises, to a fine of \$250 or to imprisonment for 3 months.

16. Where any person is convicted of an offence against this Ordinance the court may in addition to any other penalty it may impose order that any fish caught or fish product produced in the commission of such offence or the proceeds of sale of such fish or fish product and any fishing gear, instruments or appliances and in the case of an offence under Section 6(1), Section 14 or Section 15(1) any vessel (together with its equipment, stores and cargo) used in the commission of such offence or in respect of which such offence has been committed, shall be forfeited to the Crown and if so forfeited such property shall be disposed of in such manner as the Governor-in-Council may direct.

Forfeiture of  
gear, fish and  
vessels

17. All fish found on board any vessel used in the commission of an offence against the provisions of this Ordinance or in respect of which any such offence has been committed shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

Presumption  
relating to fish

18. (1) Any fish, fish product or other article of a perishable nature seized under the provisions of this Ordinance may on the direction of the Fisheries Officer be sold and the net proceeds of sale held pending the outcome of any prosecution brought under this Ordinance, and if a decision is made not to bring any prosecution or if any prosecution results in an acquittal such proceeds shall be paid to the owner of the fish, fish product or other article so sold.

Disposal of  
seized goods.

(2) Any vessel, fishing gear, instrument or appliance seized under section 10 which is not ordered to be forfeited under Section 16 shall be returned to its owner.

(3) Where any vessel, fishing gear, instrument or appliance, fish or fish product has been seized under Section 10, the court may order its release, on receipt of a satisfactory bond or other security from any person claiming such property conditioned on such person —

- (a) delivering such property to the court upon the order of the court, without impairment of its value and paying in full any fine imposed by the court in pursuance of this Ordinance; or

- (i) establishing closed seasons for any area of Montserrat or for any species of fish;
- (ii) limiting the amount, size or weight of fish or any species of fish which may be caught or traded;
- (iii) designating prohibited fishing areas for all fish or certain species of fish or certain methods of fishing;
- (iv) prohibiting certain types of fishing gear or methods of fishing;
- (v) specifying minimum mesh sizes for fishing nets and pots;
- (e) the organization of sport fishing;
- (f) the development of fish farms and the importation of live fish;
- (g) the marketing, distribution and export of fish and fish products;
- (h) the handling, landing and transportation of fish and fish products;
- (i) the methods and procedures to be adopted and the substances to be used in fish storage and processing;
- (j) the inspection of fishing vessels and their catches, processing establishments and fish products;
- (k) minimum standards for merchantable quality of fish or fish products;
- (l) methods of analysis of fish and fish products;
- (m) the exemption of fishing vessels or fish processing establishments from any of the provisions of this Ordinance;
- (n) the prohibition of the use of practices, methods, equipment, apparatus, materials or substances likely to be injurious to the maintenance and development of fish stocks in Montserrat waters;
- (o) anything required to be prescribed by this Ordinance; and
- (p) the provision of penalties for contraventions of such