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A BILL ENTITLED

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A BILL ENTITLED

Short title. **Fisheries And Aquaculture Act, 2018.**

Being an act to make provision for the long-term conservation, management, development and sustainable use of fisheries resources and ecosystems in Sierra Leone; to provide for the development of aquaculture for the benefit of the people of Sierra Leone and for other related matters.

Date of Commencement. []

Enacted by the President and Members of Parliament in this present Parliament assembled.

PART I- PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires-

“aircraft” means any craft capable of self-sustained movement through the atmosphere, and includes helicopters and unmanned aerial systems or remotely operated airborne devices;

“artisanal fishing” means small-scale, or commercial fishing using an artisanal fishing vessel and gear where the owner is directly involved in the day-today running of the enterprise;

“artisanal fishing vessel” means any fishing vessel, canoe or un-decked vessel with a length overall of not more than 10 meters and which is motorised or not motorised, powered by an outboard or inboard engine not exceeding 40 horsepower, sails or paddles, and does not include decked or undecked semi-industrial fishing vessels or vessels used for recreational fishing;

“aquaculture” means cultivation, propagation or farming of fish, aquatic vegetation or other living aquatic resources whether from eggs, spat or seed or by rearing fish lawfully taken from the wild or lawfully imported into Sierra Leone, or by other similar process;

“authorised officer” means a person who is appointed as an authorised officer or deemed to be an authorised officer and includes an officer acting within the limits of his authority under a fisheries management agreement or an international agreement;

“authorised person” shall include all authorised officers, inspectors and observers appointed in accordance with this Act;

“commercial fishing” refers to the harvesting of fish, either in whole or in part, for sale, barter or trade;

“Community Fisheries Management Areas” means an area of the fisheries waters of Sierra Leone where a community has exclusive rights of access and control for the purpose of sustaining the fisheries resource in that area;

“Community Management Associations” means a group of communities residing in an area adjacent to fisheries waters area that have exclusive right of access and responsibility for the management of a fisheries resource in that area.

“ecosystem approach to fisheries” means an approach that balances diverse societal objectives, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions, and applying an integrated approach to fisheries within ecologically meaningful boundaries;

“exclusive economic zone” consists of an area of the sea beyond and adjacent to the territorial sea and extends at every point a distance of two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured;

“fish” means any aquatic animal or plant, alive or dead, and includes their eggs, spawn, spat, seeds, spores, cuttings and juvenile stages, and any of their parts and sedentary species;

“fish aggregating device” means any object or group of objects of any size floating on or near the surface of the water or semi-submerged in the water or moving slowly near the surface of the water, whether living or non-living, that has been deployed for the purpose of aggregating fish, or that has not been so deployed but which has or is likely to have the effect of aggregating fish, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs, light devices and large sea animals;

“fisher folk” means any person who is associated with fishing or related activities, including a fisher;

“fish stock” means a species of fish or fishery resources within a particular area that is treated as one unit for the purposes of fisheries management.

“fisheries waters” means the inland waters, the territorial sea, the exclusive economic zone and any other waters over which Sierra Leone exercises or claims sovereignty, jurisdiction or sovereign rights, and includes the seabed and subsoil underlying those waters;

“fishery” or “fisheries” means -

- (a) one or more stocks of fish, or parts of any of them, which can be treated as a unit for the purposes of conservation, development and management, taking into account geographical, scientific, technical, customary, recreational, economic and other relevant characteristics; or
- (b) any fisheries operations based on such stocks;

“fishery resource” or “fisheries resource” means any fishery, or stock, species, or habitat of fish or part of any of them;

“fishing” means -

- (a) searching for or taking fish;
- (b) the attempted searching for or taking of fish;
- (c) engaging in any activity, which can reasonably be expected to result in the locating or taking of fish;
- (d) placing, searching for or recovering any fish aggregating device or associated electronic equipment including radio beacons;
- (e) any operation at sea in support of or in preparation for any activity in relation to a fishing vessel described in paragraphs (a) to (d); or
- (f) any use of an aircraft which is related to any activity described in paragraphs (a)

to (d), except where flights in emergencies involving the health or safety of a crew member or the safety of the vessel;

“fishing vessel” means any vessel which is used for, equipped to be used for, or of a type normally used for, fishing or related activities;

“foreign fishing vessel” means a fishing vessel that is not registered and not flying the flag of Sierra Leone;

“gear” in relation to fishing, includes any equipment, implement or other thing that can be used in the act of fishing or related activities, including any net, rope, line, float, trap, hook, hookah gear, scuba gear, winch, boat, craft or aircraft carried on board a vessel, fish finding equipment, fish aggregating devices, aircraft or vehicle used in association with the act of fishing;

“high seas” means any area of seas beyond the national jurisdiction of Sierra Leone;

“Inshore Exclusion Zone” consists of all waters seawards of the low-water line along the coast of Sierra Leone to the line connecting the following coordinates of latitude and longitude as may be defined in Regulations made under this Act;

“international agreement” means a bilateral, sub-regional, regional, multilateral or other agreement or arrangement that is legally binding on Sierra Leone at the relevant time, and includes a fisheries access agreement and a fisheries management agreement;

“international conservation and management measure” means a measure to conserve or manage one or more species of living marine resources that is adopted and applied consistently with the relevant rules of international law;

“illegal, unreported and unregulated fishing” means fishing activities which are illegal, unreported or unregulated, and includes -

- (a) “illegal fishing” means fishing or related activities in support of such fishing -
 - (i) conducted by a Sierra Leone fishing vessel or a foreign fishing

vessel in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;

- (ii) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organisation but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law; or
 - (iii) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation.
- (b) “unreported fishing” means fishing or related activities in support of such fishing -
- (i) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
 - (ii) undertaken in the area of competence of a relevant regional fisheries management organisation which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.
- (c) “unregulated fishing” means fishing or related activities in support of such fishing -
- (i) in the area of application of a relevant regional fisheries management organisation that are

conducted by vessels without nationality, or by those flying the flag of a State not Party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or

- (ii) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

“licence” means a licence issued under this Act;

“local fishing vessel” means a fishing vessel owned by any person or persons who are nationals or permanent residents of Sierra Leone and used for fishing primarily in the fisheries waters or as may be otherwise specified by Regulation;

“Local Councils” means Local Councils established under paragraph (c) of subsection (2) of section 2 of the Local Government Act 2004;

“marine protected area” means a form of marine reserve and includes any area of intertidal or subtidal terrain, together with its overlying waters and associated flora, fauna, historical and cultural features, which has been reserved pursuant to the Act to protect part or all of the enclosed environment;

“master” in relation to any fishing vessel, means the person for the time being in command or in charge of that fishing vessel and includes any person who is responsible for the vessels navigation, safety and fishing activities;

“operator” means any natural or legal person who is in charge of or who directs or controls a vessel, and who operates or holds any undertaking carrying out any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products and includes the

master, owner and charterer and the beneficiary of the economic or financial benefit of the vessel's operations;

“precautionary approach” means a decision-making principle that acknowledges that where there is a threat of serious or irreversible environment harm, lack of scientific certainty shall not be used as a reason to prevent or postpone action to mitigate the environmental harm;

“processing” means the producing of any substance or article from fish by any method, and includes the cutting up, dismembering, cleaning, sorting, loining, freezing, canning, smoking, drying, filleting, fermenting, salting and preserving of fish;

“regional fishery bodies”, means a mechanism through which States or organisations that are parties to an international fishery agreement or arrangement work together towards the conservation, management and development of fisheries;

“regional fisheries management organisation”, means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish conservation and management measures;

“related activities”, in relation to fishing, includes –

- (a) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;
- (b) transshipping, storing, processing or transporting fish or fish products up to the time they are first landed;
- (c) on-shore storing, or processing fish or fish products from the time they first landed; and
- (d) attempting or preparing to do any of the above activities;

“research” means scientific assessment or investigations carried out on any aspect of fish, fishing or fisheries resources in or relating to the fisheries waters;

“subsistence” in relation to fishing, means local, non-commercial fisheries, oriented not primarily for

recreation but for the production of fish for consumption of the fishers, their families and community;

“sustainable use” includes -

- (a) maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of a future generation;
- (b) avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment; or
- (c) conserving, using, enhancing and developing fisheries resources to provide social, economic and cultural wellbeing for Sierra Leone;

“transshipment” means the act of transferring fish or fishery products from one fishing vessel to either another fishing vessel or to a vessel used solely for the carriage of cargo.

Application.

2. This Act applies to and in relation to-

- (a) all areas and persons over which Sierra Leone exercises sovereignty, sovereign rights or jurisdiction under this Act;
- (b) all fisheries resources, fishing and related activities, utilisation of fish and genetic material derived from them and any other matter falling within the scope of this Act;
- (c) all persons, vessels, vehicles, aircraft, processing plants or facilities, export or import facilities or other craft or place engaged in or otherwise connected with any activity falling within the scope of this Act;
- (d) all persons (including non-citizens), and vessels (including foreign vessels) in relation to areas within or beyond the jurisdiction of Sierra Leone -
 - (i) following in hot pursuit conducted in accordance with international law; or

- (ii) as required by this Act or any international conservation and management measure, or permitted by international law or any convention, treaty, access agreement, fisheries management agreement or other arrangement or agreement to which Sierra Leone is a party; and
- (e) all Sierra Leone fishing vessels and all persons on them or dealing with or having any relevant relationship to them or persons on them, in and in relation to any areas within or beyond national jurisdiction in so far as it is not in conflict with the territorial jurisdiction of another State.

PART II- ADMINISTRATIVE PROVISIONS

Management and administration.

3. (1) The exclusive management and control over fish, fisheries and other aquatic resources within the fisheries waters shall be vested in the Government and the Ministry responsible for fisheries and marine resources shall have the institutional responsibility for the administration of this Act.

(2) The Minister responsible for fisheries and marine resources shall perform or exercise such functions, powers and duties as are provided under this Act, and in particular-

- (a) shall give general direction and policy guidance on matters within the scope of this Act, including approving and as appropriate recommending amendments to or revocation of-
 - (i) the Fisheries and Aquaculture Policy and Operational framework;
 - (ii) the Fisheries, Aquaculture and Marine Resources Management and Development Strategy;
- (b) shall approve operational plans, budget proposals and the annual report;
- (c) shall issue regulations for the implementation of this Act based on advice provided by the Scientific, Economic and Technical Committee and

in accordance with the objectives set out in section 9;

- (d) shall consult with the Director of Fisheries, the Scientific, Economic and Technical Committee, the Institute of Marine Biology and Oceanography and undertake such other consultations as may be required;
- (e) shall approve the necessary conservation and management measures in section 10;
- (f) shall designate Community Fisheries Management Areas in consultation with the relevant Local Council and devolve designated governance functions relating to fisheries conservation, management and development to local authorities in relation to those areas, while maintaining the oversight of the Ministry in accordance with this Act;
- (g) shall promote international cooperation, communication and understanding between Sierra Leone and other governments, regional fishery bodies, regional fisheries management organisations and international organisations to harmonise standards and procedures pursuant to minimum standards adopted in international fisheries instruments;
- (h) may delegate responsibilities and give general or special directions to the Director of Fisheries when needed, for the effective implementation of this Act;
- (i) shall ensure that the Director of Fisheries, as well as other officials in the Ministry and any delegated person comply with their duties and obligations under this Act;
- (j) shall approve the Fisheries Management Plans elaborated in section 11.

Appointment of Director of Fisheries. 4. (1) There shall be a Director of Fisheries appointed by the Public Service Commission, upon such terms and conditions as shall be stated in his letter of appointment.

(2) No person shall be appointed a Director of Fisheries unless he has considerable knowledge and proven experience in the management of fisheries resources and aquaculture.

**Functions
of Director.**

5. (1) The Director of Fisheries shall exercise such functions, and duties as are assigned to him under this Act, subject to the policy guidance of the Minister and the advice of the Scientific, Economic and Technical Committee, including to-

- (a) advise the Minister and facilitate the implementation of the Fisheries and Aquaculture Policy and Operational framework and Strategy.
- (b) manage and coordinate the following at national level, and under the general direction of the Minister and with the advice of the Scientific, Economic and Technical Committee, at regional and international levels-
 - (i) the conservation, management and sustainable use of fisheries resources;
 - (ii) sustainable development and responsible management of aquaculture activities;
 - (iii) relevant fish processing activities;
 - (iv) fisheries research, training and education; and
 - (v) development of Fisheries Management Plans in under section 11.
- (c) grant, renew, suspend or revoke licenses and authorizations taking into account the advice provided by the Scientific, Economic and Technical Committee and where the Director grants or renews a licence or authorisation, or declines to grant or renew a licence or authorization, or suspends or revokes a licence or authorization, he or she shall promptly transmit them to the applicant who will have the right to appeal pursuant to the procedure established in the Regulations.
- (d) appoint such other committees necessary or convenient for carrying out the purposes of the Act, specify the terms of reference for the

appointed committees, and take into account the advice and recommendations of such committees.

- (e) make recommendations to the Minister on any matter under the Director's authority.
- (f) identify and recommend the establishment of Community Management Areas to the Minister for declaration under paragraph (f) of subsection (2) of section 3.
- (g) perform or exercise such other functions, powers and duties as may be prescribed or necessary to carry out the objectives of this Act;
- (h) direct heads of departments in the exercise of his powers, duties and functions.

(2) Notwithstanding subsection (1), the Director may delegate any of his functions, powers and duties to a public officer in the Ministry of Fisheries and Marine Resources and the delegation may be made to any person from time to time holding or performing the duties of an office or position specified in this Act.

(3) Head of Departments or Units shall be assigned duties and responsibilities by the Director and shall take direction from and report to the Director through the Deputy Director.

**Deputy
Director.**

6. (1) There shall be a Deputy Director who shall be appointed by the Public Service Commission upon such terms and conditions as may be stated in his letter of Appointment.

(2) The Deputy Director shall be responsible for such tasks as may be assigned to him by the Director and shall take directions from the Director, report to the Director and support him in the exercise of his powers, duties and functions under this Act.

**Establishment
of Scientific,
Economic
and
Technical
Committee.**

7. (1) There shall be a Scientific, Economic and Technical Committee which shall be responsible to advise the Ministry on –

- (a) the biological, social, economic and technical aspects of the fisheries sector and resources in order to guarantee sustainable management and conservation;
- (b) the issuing of regulations;
- (c) the development of Fisheries Management Plans; and

- (d) granting, renewal, suspension or revocation of licences.

(2) The Scientific, Economic and Technical Committee shall comprise the Director of Fisheries who shall be the Chairman and the following other members –

- (a) the Permanent Secretary, Ministry of Fisheries and Marine Resources;
- (b) the President, Industrial Fishing Companies Association;
- (c) the artisanal fisheries sector represented, on an annual rotational basis, by the President, Sierra Leone Artisanal Fishermen Union, the President, Sierra Leone Amalgamated Artisanal Fishermen Union and the President, Sierra Leone Indigenous Artisanal Fishermen Union respectively;
- (d) 2 members representing academic and research institutions appointed by the head of the institution;
- (e) 2 members appointed by the Director of Fisheries and approved by the Minister based on functional expertise necessary to cover the mandate of the Scientific, Economic and Technical Committee;
- (f) the Deputy-Director, who shall be Secretary to the Scientific Economic and Technical Committee.

(3) A member of the Scientific Economic and Technical Committee appointed under paragraph (e) shall serve a of 3 years and shall be eligible for appointment for another one term only.

(4) The Scientific Economic and Technical Committee shall cause research and data collection to be carried out in order to improve scientific and technical knowledge of fisheries including their interaction with the ecosystem.

(5) Members of the Scientific, Economic and Technical Committee shall be entitled to special allowances for their work in the activities of the Committee.

Disclosure of interest.

8. (1) A member of the Scientific Economic and Technical Committee who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Committee, shall disclose the nature of his interest to the Committee and the disclosure shall be recorded in

the minutes of the Committee and such member shall not take part in any deliberation or decision of the Committee relating to that matter.

(2) A member of the Committee who contravenes subsection (1) shall be guilty of misconduct and shall be removed from the Committee.

PART III-FISHERIES MANAGEMENT, DEVELOPMENT AND CONSERVATION

Objectives and purposes for management and development of fisheries.

9. The objectives and purposes for fisheries management to ensure sustainable management of fisheries include -

- (a) establish priorities for the utilisation of fisheries resources;
- (b) ensure proper conservation of fishery resource through the prevention of overfishing and taking of a precautionary approach toward harvesting.
- (c) fisheries conservation and management measures shall be based on the best technical knowledge and scientific evidence available to maintain or restore stocks, as qualified by relevant environmental and economic factors including fishing patterns, the interdependence of stocks and relevant international standards;
- (d) base management practices on sound management principles and best scientific information available. Complete and accurate data and information concerning fishing activities and fisheries resources shall be collected and shared in a timely manner;
- (e) development and use of selective, environmentally safe and cost-effective fishing gear and techniques shall be promoted;
- (f) develop the fisheries sector and in so doing give preference to the needs of local fisheries over foreign fisheries.

Conservation and management measures.

10. (1) The Minister, with the advice of the Director of Fisheries, and in consultation with the Scientific, Economic and Technical Committee shall issue regulations prescribing measures for the proper management and conservation of fisheries resources to ensure the long-term sustainable use of

fisheries resources in accordance with the objectives and purposes set out in section 9.

(2) Conservation and management measures may provide for-

- (a) allocations including the granting of fishing rights to artisanal fish folks, determining quotas which may be individual, national, group, total allowable-catch;
- (b) area closure, seasonal closure, gear restriction, effort limitation, reduction of by-catch, participatory rights and reporting;
- (c) management of discards and habitats;
- (d) rules and procedures on import or export of fish and fishery products;
- (e) licences or authorisation for any vessel or class or category of vessels to be used for fishing related activities or any other purpose under this Act;
- (d) responsibilities of Community Fisheries Management Associations in the conservation and management of specific fisheries;
- (e) employment of persons on board fishing vessels;
- (f) fees, fines, levies, penalties, and royalties;
- (g) duties and procedures to be followed by the master and crew of any vessel in relation to authorised officers and observers;
- (h) regulating and controlling the operation of fish processing establishments, and aquaculture facilities including quality control measures and inspection of such establishments;
- (i) marine scientific research, test fishing, marine genetic resources and bio-prospecting;
- (j) prohibiting the landing, transporting, transshipping, receiving or possession of fish, and any activity within the scope of this Act which may have an adverse effect on living or non-living marine resources;

- (k) other measures required for the management, development and conservation of fish and fishery resources.

**Fisheries
Management
Plans.**

11. (1) The Director of Fisheries shall, in consultation with the Scientific, Economic and Technical Committee and any other relevant Stakeholders review and implement annual Fisheries Management Plans in respect of any fisheries resources or area in the Sierra Leone fishery waters.

(2) A review by the Director under subsection (1), shall take into account the recommendations of applicable regional fishery bodies and international conservation and management measures adopted by applicable regional fisheries management organizations.

(3) A Fisheries Management Plan shall be consistent with the objective and principles of this Act, and shall as appropriate be drawn up in accordance with prescribed framework.

(4) A Fisheries Management Plan shall-

- (a) identify the fisheries resources and area and its characteristics, including the-
 - (i) current status of the fisheries resource(s) and the area;
 - (ii) current state of exploitation;
 - (iii) relevant traditional fishing methods and practices;
 - (iv) boundaries of any relevant area;
 - (v) possible adverse effects of fishing on the resource and environment;
 - (vi) relevant regional and international context.
- (b) identify the management objectives and strategy for the fishery;
- (c) identify, as appropriate, any local fishing rights or practices and management plans or practices;
- (d) identify the process for development and implementation of the Fisheries Management Plan, including stakeholder consultations;

- (e) specify management measures to be applied to the fishery;
- (f) specify plans for monitoring and review of the fishery and the Fisheries Management Plan;
- (g) as appropriate make provision in relation to any other matter necessary for effective conservation and sustainable use of the fishery.

(5) A Fisheries Management Plan may include the delegation of shared management responsibility to any local area authority, including Local Councils, Community Management Associations and other relevant stakeholders for the development of shared responsibility for the management of artisanal fisheries and marine protected areas.

(6) Each Fisheries Management Plan and each revision of a Fisheries Management Plan shall be submitted to the Minister for approval.

(7) Upon approval by the Minister and the giving of due and effective public notice, the management measures in each Fisheries Management Plan shall be deemed to have the legal status of Regulation. A Fishery Management Plan shall have no effect to the extent that is inconsistent with this Act.

International and regional cooperation in fisheries management.

12. (1) The Minister shall cooperate with foreign governments, in particular with those of States sharing the same or interrelated stocks or with any competent regional organisation.

(2) The Director of Fisheries shall adopt appropriate measures to ensure sustainable management of fish and fisheries resources and to act against illegal, unreported, and unregulated fishing activities.

(3) The Director of Fisheries shall ensure in collaboration with the relevant authorities that nationals and Sierra Leone fishing vessels entitled to fly the flag of Sierra Leone do not engage in or support Illegal, Unreported, and Unregulated fishing activities.

(4) The Director of Fisheries shall deter fishing vessels from reflagging for the purposes of non-compliance with fish and fisheries conservation and management measures or provisions adopted at a national, regional or global level.

(5) The Director of Fisheries shall develop within six months after entering into force of this Act and thereafter implement a National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing, including, as appropriate, actions to implement initiatives adopted by relevant Regional Fishing Management Organisation, and shall provide a mechanism to review the progress of its implementation and where necessary

shall provide adjustments to improve its effectiveness, following such rules as may be prescribed.

(6) In doing so, the Director of Fisheries shall encourage the full participation and engagement of all interested stakeholders, including industry, fishing communities and non-governmental organisations.

PART IV- REGISTRATION, LICENSING AND ARTISANAL FISHERIES

Registration of fishing vessels.

13. (1) No person shall use any vessel for fishing in Sierra Leone fishery waters unless the vessel has a valid certificate of registration issued by the Director of Fisheries under this Act, notwithstanding any registration requirements under the Merchant Shipping Act.

(2) Prior to importation, construction, or acquisition of a new fishing vessel or gear, or conversion of a vessel into a fishing vessel, the authorisation of the Director of Fisheries shall first be obtained in order to-

- (a) manage fishing capacity;
- (b) ensure that any vessel does not engage in or support illegal, unreported and unregulated fishing activities;
- (c) verify the information provided by the applicant
- (d) undertake a full background check of the history of compliance ensuring that the concerned fishing vessel and its potential owner has never been involved in illegal, unreported and unregulated fishing activities; or
- (e) that the ownership of the vessel has subsequently changed and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of the vessel.

(3) To verify the information provided by the applicant, in paragraph (c) of subsection (2), the Director of Fisheries shall consult with-

- (a) any regional fisheries management organisation;
- (b) relevant international organisations;

- (c) other States;
- (d) non-governmental organisations with interest in fisheries matters.

(4) Any person who operates a fishing vessel in Sierra fishery waters without a valid certificate of registration commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

(6) The Director of Fisheries shall establish and maintain a national register of licenced fishing vessels.

Licences and authorisation required. **14.** (1) No person shall engage in any of the following activities without a valid licence or authorisation issued by the Director of Fisheries under this Act–

- (a) using a fishing vessel (national or foreign) for fishing or related activities, including diving for commercial fishing purposes, commercial sport fishing and recreational fishing;
- (b) using a Sierra Leone fishing vessel for fishing or related activities in areas beyond the fisheries waters, including fishing on the high seas or in waters under the jurisdiction of another State;
- (c) operating a fish and fish processing establishment or storage facility;
- (d) the export or import of live fish or other fish products;
- (e) research into fisheries, fishery resources or related activities within the fisheries waters;
- (f) introduction into the fisheries waters of any genetically modified fish;
- (g) deployment, maintenance, monitoring and retrieval of any fish aggregating device and associated electronic equipment or as appropriate fishing around such a device;
- (h) such activities as may be prescribed for exploration and exploitation of non-living marine resources or otherwise in relation to the seabed and subsoil over which Sierra Leone exercises jurisdiction or sovereign rights; and
- (i) such other activities as may be proscribed by the Fisheries Director in accordance with this Act, in

a Fisheries Management Plan or prescribed by Regulation.

(2) Any person who contravenes sub-section (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

**Buying,
selling,
storage,
processing
of fish
and fish
products
for export.**

15. (1) No person shall, for purposes of buying, selling, storage and processing of fish and fish products for export -

- (a) engage in any activity relating to fish processing for the purposes of export without a licence;
- (b) buy fish from an unlicensed storage facility or an unlicensed fish processing facility; or
- (c) buy or sell fish where there are reasonable grounds to believe that it has been caught as a result of illegal, unreported or unregulated fishing activities.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

**Grant and
renewal of
licences and
authorisation.**

16. (1) The Director of Fisheries shall grant or renew licences and authorisation under this Act.

(2) Licences issued by the Director of Fisheries under subsection (1) include industrial, semi-industrial, artisanal, fishing vessels and fish processing or storage establishment licences.

(3) The Director of Fisheries shall, after granting and issuing a licence or authorisations, promptly inform all relevant enforcement authorities.

(4) Where the Director of Fisheries grants or renews a licence or authorisation, or declines to grant or renew a licence or authorisation, he shall state in writing reasons for the decision, and promptly transmit them to the applicant.

(5) The Director of Fisheries shall not grant or renew a licence or authorization if the vessel, establishment or person subject to the licence has been found not to be compliant with this Act or Regulations made under it.

(6) Where the Director of Fisheries does not notify the applicant of a decision to grant or renew a licence or authorisation within 14 days of receipt of the application, the application shall be deemed to have been denied and the applicant shall have the right to appeal the decision.

(7) Detailed rules on terms, conditions and procedures for obtaining and issuing licences shall be as the Minister may, by statutory instrument, prescribe.

Reporting.

17.(1) The operator of a licenced or authorised vessel, or of such other fishing vessel licensed under this Act, shall maintain log books and make such reports relating to fishing or related activities at such times, containing such information and in such format as may be prescribed or as the Director of Fisheries may require.

(2) The operator of a foreign fishing vessel, not licensed under this Act and navigating through the territorial waters shall report its name, International Radio Call Sign, flag registration, International Maritime Organization number assigned by its flag State, the date and time, position (to 1 minute of arc), complement, intended activity, and catch on board, to the Director or his nominee electronically or manually, upon entry into and departure from the territorial waters and at such other times as the Minister may by statutory instrument prescribe.

(3) Other reports in respect of any activity under the scope of this Act may be as the Minister may, by statutory instrument, prescribe or as required by the Director.

(4) Any person who fails to provide a report as required under sub-section (1), (2) or (3) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Artisanal fisheries.

18. (1) The Inshore Exclusion Zone shall be reserved for artisanal and recreational fisheries.

(2) The Director of Fisheries in collaboration with relevant stakeholders shall promote opportunities to develop sustainable artisanal fisheries using efficient vessels and low impact fishing gears, and shall encourage communities to invest in sustainable artisanal fisheries.

(3) The Director of Fisheries in collaboration with relevant stakeholders shall promote the establishment of artisanal fishers associations whereby communities and fisheries shall be encouraged to form fisheries marketing associations to develop market strategies for artisanal fisheries.

PART V- MONITORING, CONTROL, SURVEILLANCE AND ENFORCEMENT

Monitoring, Control, Surveillance and Enforcement Department.

19. (1) There is hereby established a Monitoring, Control, Surveillance and Enforcement Department which shall be responsible for -

- (a) monitoring, control and surveillance of all fishing and related activities within the scope of this Act by whatever appropriate means, including the management and operation of

satellite based vessel management systems, transceiver units, satellite, radio and internet communications for data transmission relating to the activities and fish capture of foreign and national fishing vessels licensed to operate within Sierra Leone fisheries waters;

- (b) the enforcement of this Act, the regulations and any other enactment relating to the regulation of fishing activities within Sierra Leone fisheries waters;

(2) The Monitoring, Control, Surveillance and Enforcement Department may include personnel from other relevant Ministries, Departments and Agencies to assist to carry out its functions and cooperate with these other Ministries, Departments and Agencies in the performance of its functions.

(3) The head of the Monitoring, Control, Surveillance and Enforcement Department shall be appointed by the Director shall from among staff within the Ministry of Fisheries and Marine Resources qualified to be appointed as the Assistant Director or Deputy Director level and shall inform the cooperating Ministries, Departments and Agencies as appropriate.

Authorised persons.

20. (1) There shall be appointed authorised persons, including authorised officers, inspectors and observers for carrying out functions relating to monitoring, control surveillance and enforcement in accordance with the objective and purposes of this Act.

(2) Authorised officers or person may be appointed by the Director of Fisheries in writing, for the purpose of administering, monitoring and enforcing this Act and such other relevant laws and measures within and beyond areas of fisheries waters that fall within the scope of this Act, any applicable international agreement or international conservation and management measure.

(3) Every authorised officer or person of another State exercising duties within fisheries waters pursuant to an agreement or arrangement to which Serra Leone is a party shall be appointed in accordance with subsection (1) and shall comply with this Act, the laws of Sierra Leone and the instructions of the Director of Fisheries.

(4) Any Fisheries Officer who is an officer of the Ministry of Fisheries and Marine Resources shall be deemed an authorised officer for the purpose of this Act.

(5) Any Navy personnel, Customs or Police acting within the limits of his authority is deemed to be an authorised officer for the purposes of this Act.

(6) The Minister may, on the recommendation of the Director of Fisheries -

- (a) specify the members or class of members of the Navy, Customs Office and Police Force included in the definition of “authorised officer”; and
- (b) limit the performance or exercise of the powers and functions of any authorised officer to a specific area or period of time.
- (c) on a half-yearly basis, by statutory instrument prescribe the names of members or class of members of the Navy, Customs Office and Police Force included in the definition of “authorised officer”.

(7) The Director of Fisheries shall ensure that any person appointed as an authorised officer or person has the training or experience necessary to discharge his functions and responsibilities under this Act.

Powers of authorised officers.

21. (1) An authorised officer may do such acts and things and give such directives as are reasonably necessary for the purposes of performing or exercising his functions, powers and duties under this Act.

(2) An authorised officer may use such force as is reasonably necessary to exercise his powers under this Act.

(3) An authorised officer may, in circumstances where the need for assistance in enforcing this Act is immediate and overwhelming, require any person to assist him to bring a vessel to a place in -

- (a) Sierra Leone; or
- (b) another State where permission has been given by that State.

(4) Where an authorised officer is required to undertake duties in areas beyond fisheries waters, unless provided otherwise in an international agreement, this Act shall be applicable as if the duties were performed within the fisheries waters.

(5) An authorised officer shall carry out his duties in accordance with this Act and shall not –

- (a) receive or solicit directly or indirectly anything of value to improperly influence his action;
- (b) withhold evidence; or

- (c) act inconsistently with the standards required in subsections (1), (2) or (3).

(6) Any person who contravenes subsection (5) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Identification of authorised officers.

22. (1) An authorised officer exercising any power conferred by this Act shall, upon request, identify himself and produce evidence that he is an authorised officer.

(2) Where an authorised officer identifies himself under subsection (1), unless the contrary is proved, it shall be sufficient authority for him to do anything, which he is authorised to do under this Act.

Powers of entry and search.

23. (1) An authorised officer may, for any purpose falling within the scope of this Act, without a warrant at any reasonable time -

- (a) stop, enter, board, stay on board, examine and search any vessel to which this Act or any international agreement applies, including a Sierra Leone fishing vessel inside or outside fisheries waters;
- (b) enter, examine and search any premises, place or vehicle -
 - (i) in or on which he has reason to suspect may be found evidence of an offence against this Act; or
 - (ii) that it is necessary or expedient to enter or search to ascertain whether an offence against this Act has or is being committed;
- (c) stop any person and examine any record, article, container, gear, apparatus, device or fish in the possession of that person;
- (d) pass across any land or body of water; and
- (e) examine and search any document, record, article, container, gear, equipment, apparatus, device, fish and contents of any kind found therein or thereon.

(2) An authorised officer may detain any person, vessel, vehicle, parcel, package, record, document, article, gear, equipment, apparatus, device, container, fish or thing for such period as is reasonably

necessary to enable the authorised officer to carry out an examination or search under this section.

(3) An authorised officer may, in respect of premises used exclusively as a dwelling house, only conduct searches and seizures in accordance with this section with a warrant issued by a Magistrate or Judge, and this section shall apply with the necessary modifications.

(4) Notwithstanding sub-section (3), an authorised officer may enter and conduct searches and seizures without a warrant in premises that are part of, or attached to, a dwelling house that the authorised officer reasonably suspects are used for activities falling within the scope of this Act.

Power to take, detain, remove and secure information and evidence. **24.** (1) An authorised officer may, for purposes and activities falling within the scope of this Act-

- (a) inspect, take, detain and secure samples, documents, logbooks or other information, or copies thereof, from any vessel, premises, facilities or other place, other than premises used exclusively as a dwelling house, but including premises that are part of or attached to a dwelling house used for activities falling within the scope of this Act;
- (b) make or take copies of any record, and for this purpose may take possession of and remove any records from the place where they are kept, for such period of time as is reasonable in the circumstances;
- (c) if necessary, require a person to produce, or assist the authorised officer to produce in a useable form, information recorded or stored in a document;
- (d) require any person associated or apparently associated with a vessel, vehicle, premises, facilities or other place or activity falling within the scope of this Act to provide such information as may be reasonably required for the monitoring or enforcement of this Act; and
- (e) otherwise remove and secure any item that may reasonably be considered to be evidence of an offence against this Act.

(2) Where an authorised officer is questioning a person for the purposes of paragraph (d) of sub-section (1), he may-

- (a) require the person being questioned to provide answers including any explanation or information concerning any vessel or any place or thing or fishing method, gear, apparatus, record, document, article, device, or thing relating to the taking, sale, purchase, or possession of any fish; and
- (b) require that person or any other person to produce any permit, authority, approval, permission, licence, certificate or other document issued in respect of any vessel, vehicle or person.

(3) Any person who contravenes this section commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Power of arrest.

25. (1) An authorised officer may, if he believes on reasonable grounds that a person -

- (a) is committing or has committed an offence against this Act
- (b) assaults him or any other authorised officer or observer while exercising his powers or duties under this Act; or
- (c) offers directly or indirectly anything of value to improperly influence the action of an authorised officer or observer -

order that person to immediately cease and desist and may-

- (i) request that person to supply to the authorised officer that person's name, date of birth, residential address and occupation and may request that person to supply such verification of those details as it is reasonable in the circumstances to require; and
- (ii) arrest that person without warrant.

(2) Where an authorised officer arrests a person under subsection (1), the authorised officer shall cause the person to be delivered into the custody of a member of Sierra Leone Police Force as soon as practicable and that person shall thereafter be dealt with in accordance with the law, except that the duties relating to the laying and filing of an information shall be carried out by the arresting authorised officer and not by a member of the Police Force.

Power to give

26. Where an authorised officer reasonably believes that a vessel is being or has been used in contravention of this Act, a Fisheries Management

direction. Plan, an international conservation and management measure or any agreement entered into under this Act, the authorised officer –

- (a) may take the vessel as soon as reasonably practicable to the nearest available port in Sierra Leone or a port in such other State as may be agreed between the master, the authorised officer and such other State;
- (b) may remain in control of the vessel at such port and make such investigations for such period as is reasonably necessary to determine whether there is sufficient evidence of illegal, unreported and unregulated fishing or related activities; and
- (c) shall permit the master to depart from the port, within 72 hours after arrival in port, where, after investigation, there is not sufficient evidence to prove that the master or vessel has contravened the Act.

Seizure of vessels and items.

27. (1) For the purposes of this section a vessel's equipment, gear, furniture, appurtenances, stores, and cargo are deemed to form part of the vessel.

(2) An authorised officer may seize-

- (a) any vessel or other conveyance, fishing gear, implement, appliance, material, container, goods, equipment or thing which the authorized officer believes on reasonable grounds is being, has been or is intended to be used in the commission of an offence under this Act;
- (b) any fish or fish product (and any other fish with which such fish are intermixed) that the authorised officer believes on reasonable grounds are being or have been taken, killed, transported, bought or sold or have been found in the possession of any person in contravention of this Act;
- (c) any article, record or thing that the authorised officer believes on reasonable grounds may provide evidence of an offence against this Act;
- (d) any passport and seaman's record book-
 - (i) of the master and crew of a vessel directed to return to and remain in port pursuant to this Act until the vessel is permitted to depart;

- (ii) of any person arrested, until that person is brought before a court; or
- (iii) pursuant to any order of the Court; and
- (e) any other item which the authorised officer has reasonable grounds to believe -
 - (i) has been or is being used to commit an offence against this Act;
 - (ii) has been forfeited under this Act; or
 - (iii) has been unlawfully removed from custody under this Act.

(3) An authorised officer shall deliver anything seized under subsection (2) into such custody as the Director may direct.

(4) A written notice of the seizure shall be given to the person from whom any article or thing was seized or to any other person whom the authorised officer believes is the owner or person otherwise entitled to possession of the article or thing seized, and the grounds for such seizure shall be stated in the notice.

Removal of parts from seized vessels. **28.** (1) An authorised officer may remove any part from the vessel seized under to this Act for the purpose of immobilizing that vessel.

(2) Any part or parts removed under sub-section (1) shall be kept safely and returned to the vessel upon its release.

(3) No person shall, except on a written direction from the Director of Fisheries, -

- (a) possess or arrange to obtain any part or parts removed under subsection (1);
- (b) possess or arrange to obtain or make any replacement or substitute part or parts for those removed under sub-section (1); or
- (c) fit or attempt to fit any part or parts or any replacement or substitute part or parts to a vessel immobilized under subsection (1).

(4) Any person who contravenes this section commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Observer program.

29. (1) The Director of Fisheries shall establish an observer program as a national conservation measure and under a fisheries management agreement or other regional fisheries management organisations for the purpose of collecting, recording and reporting reliable and accurate information for scientific, conservation, management and compliance purposes including information on –

- (a) the species, quantity, size, age and condition of fish taken;
- (b) the methods by which, the areas in which, and the depths at which, fish are taken;
- (c) the effects of fishing methods on fish and the environment;
- (d) all aspects of the operation of any vessel;
- (e) processing, transportation, transshipment, storage or disposal of any fish or fish products;
- (f) monitoring the implementation of management measures and applicable international conservation and management measures; and
- (g) any other matter that may assist the Director to obtain, analyse or verify information for fisheries scientific, conservation, management and compliance purposes.

(2) Observers may be deployed, as may be directed by the Director of Fisheries in accordance with this Act, any applicable international agreement or international conservation and management measure, on any vessel used for fishing, transshipment, transportation or landing of fish within and beyond the fisheries waters or any other use as may fall within the scope of this Act.

(3) The Director of Fisheries may require as a condition of a licence issued under this Act that the operator of a fishing vessel comply with any requirement that may be imposed pursuant to the observer program.

(4) An operator who does not comply with any requirements given by the Director of Fisheries under subsection (3) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

(5) Where an operator is convicted of an offence under subsection (4), the applicable licence in respect of the vessel or operator shall be cancelled and no further licence shall be issued for at least 1 year from the date of commission of the offence.

Appointment of observers. 30. (1) The Director of Fisheries may, in accordance with such standards and procedures as may be prescribed by the Minister, appoint in writing-

- (a) observers for the purposes of an observer program authorised to collect, record and report reliable and accurate information for scientific, management, and compliance purposes.
- (b) observers of other States for the purposes of implementing an agreement or arrangement to which Sierra Leone is a party, including a fisheries management agreement, or any international conservation and management measure.

(2) Observers of other States exercising duties within fisheries waters pursuant to an agreement or arrangement to which Sierra Leone is a party must be appointed in accordance with subsection (1) and shall comply with this Act, the laws of Sierra Leone and the instructions of the Director.

(3) Observers of other States exercising duties on a Sierra Leone fishing vessel on the high seas and pursuant to a fisheries management agreement or international conservation and management measure shall act consistently with such Agreement or measure.

(4) An observer shall, upon request, identify himself and produce evidence that he is an observer.

(5) An observer of another State who does not comply with subsection (2) or (3), or any observer who does not comply with subsection (4), the instructions of the Director of Fisheries or this Act commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Application of this Act to observers beyond fisheries waters. 31. (1) An observer who performs duties under this Act in areas beyond the fisheries waters or duties under any international agreement, fisheries management agreement or international conservation and management measure is, unless the contrary is provided, subject to this Act, and every operator, crew member and other relevant person shall meet their responsibilities and duties under this Act to such observer.

(2) A Sierra Leonean observer who is performing his duties under this Act in the jurisdiction of any other State shall comply with the laws of that State.

(3) A Sierra Leonean observer who does not comply with subsection (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Duty of operators, licence holders and crew members.

32. (1) The licence holder, operator, master and each crew member of any vessel on which an observer is placed shall allow and assist the observer, in the performance of his duties, to-

- (a) board such vessel at such time and place as the Director may require;
- (b) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications equipment;
- (c) take photographs of the fishing operations, including fish, gear, equipment, documents, charts and records, and remove from the vessel such photographs or film as the observer may have taken or used on board the vessel;
- (d) gather such other information relating to fisheries as may be required for purposes of carrying out the objectives of this Act; and
- (e) disembark at such time and place as the Director of Fisheries may require or in accordance with an applicable access agreement, fisheries management agreement or international conservation and management measure, provided that such disembarkation is in accordance with the safe operation of the vessel.

(2) Subsection (1) shall apply -

- (a) when the vessel is in the fisheries waters or at any place where fish taken from the fisheries waters is unloaded or transhipped as required by or authorised under the applicable licence, or international conservation and management measure; and
- (b) in the case of a Sierra Leone fishing vessel operating under a licence to fish in the high seas in areas subject to international conservation and management measures, when the vessel is on the high seas –
 - (i) in an area subject to such measures; or

- (ii) otherwise in accordance with such measures or the applicable licence.

(3) An operator or a crew member of, or a licence holder in respect of, any vessel on which an observer is placed under this Act who refuses to allow or assist an observer, in the performance of his duties, commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

**Conditions
for observers.**

33. (1) The operator and licence holder in respect of any vessel on which an observer is placed shall provide free of charge to that observer full board, feeding, medical aid, accommodation, work space and access to any cooking and toilet facilities and amenities, at officer level or at a similar standard approved in writing by the Director of Fisheries.

(2) An operator or licence holder of a vessel who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition the applicable licence may be suspended or cancelled.

**Observer
costs.**

34. (1) The Director of Fisheries may, in order to recover the costs of operating an observer program, impose fees on operators of vessels or licence holders in respect of all or any class or category of vessels licensed under this Act or licenced vessels in any fishery waters at such level and in such manner as may be prescribed.

(2) If a licence holder does not pay the fees imposed under subsection (1) within the time specified in the licence, or if no time is specified in the licence or, within a reasonable period of time as specified by the Director of Fisheries in writing, the Director of Fisheries may cancel the licence holder's licence.

**Notice of
intention to
place
observer.**

35. (1) Before placing any observer on a vessel, the Director of Fisheries shall give the operator or licence holder reasonable notice of his intention to place an observer on the vessel.

(2) The operator of a licenced vessel shall, for purposes of placement and deployment of an observer –

- (a) notify the Director of Fisheries at the beginning of each licensing period of any port or ports where it intends to base operations, and if placement is not possible at such port or ports be responsible to the Director of Fisheries for all and any extra costs incurred in observer placement; and
- (b) notify the Director of Fisheries and such other person who may have responsibility for

administration of a relevant observer program pursuant to an international agreement, fisheries management agreement or international conservation and management measure of the intended time of entry into and subsequent departure from port at such reasonable time prior to such entry as the Director of Fisheries or such other person may direct.

(3) Any person who fails to notify the Director of Fisheries or other person as required by sub-section (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition the applicable licence may be suspended or cancelled.

**Appointment
of fish
quality
control
inspectors.**

36. The Director of Fisheries may, in accordance with such standards and procedures as the Minister may by statutory instruments prescribe, appoint fisheries inspectors for the purpose of inspecting and monitoring activities, under this Act.

**Vessel
monitoring
systems.**

37. (1) The Director of Fisheries shall establish and operate vessel monitoring systems for the purpose of monitoring the compliance of fishing vessels.

(2) A licence issued under this Act may require that the operator of the licensed vessel, install, maintain and operate, in accordance with such specifications as may be prescribed or required under an international agreement –

- (a) a specified mobile transceiver unit; or
- (b) other device that forms an integral part of a vessel monitoring system; or
- (c) both.

(3) Where a mobile transceiver unit stops working, the operator of the licensed vessel on which it is installed shall immediately -

- (a) notify the Director of Fisheries that the mobile transceiver unit has stopped working; and
- (b) either-
 - (i) cause the vessel to cease fishing and travel to the nearest suitable port within Sierra Leone or such other port as is approved by the Director of Fisheries;

- (ii) submit manual reports to the Director of Fisheries, every 4 hours, or at such intervals as the Director requires, giving the vessel's name, call sign, position (expressed in latitude and longitude to the minutes of arc), and the date and time of the report.

(4) An operator who fails to comply with subsection (3) or a condition required under subsection (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

(5) Any person who, without lawful excuse, renders inoperative or otherwise interferes with a mobile transceiver unit so that it does not operate accurately or in accordance with the licence conditions commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Forfeiture.

38. Where a court convicts a person of an offence under this Act, it may order the forfeiture of any of the following -

- (a) any fish, fish product, non-living marine resource, vessel (including its gear, furniture, accessories, stores, vehicles, cargo and aircraft), gear, equipment, explosive or noxious substance or other item taken, used or otherwise involved in the commission of the offence;
- (b) where a vessel was used in the commission of the offence, any fish on board the vessel at the time of the offence;
- (c) where a processing or storage facility was used in the commission of the offence, any fish or fish product or item in the facility at the time of the offence;
- (d) where an aquaculture facility was used in the commission of the offence, any fish or fish product or item in the facility at the time of the offence.

**Disposal of
forfeited
Item.**

39. (1) Any item or security forfeited under this Act shall be forfeited to the property of the State.

(2) Where any fish or fish product which is subject to a ban imposed under this Act or any regulation or order is seized and confiscated by an authorised officer, it shall be forfeited to the State.

(3) Any person who is aggrieved by a decision made by an authorised officer under subsection (2) may apply to a court for relief.

PART VI -PROHIBITED ACTIVITIES

Fishing with explosives, electrical device, chemicals and associated activities prohibited.

40. (1) No person shall, for the purpose of killing, taking, stunning, stupefying or disabling fish or in any way rendering fish more easily caught-

- (a) use, permit to be used or attempt to use;
- (b) support or facilitate any person to use or attempt to use;
- (c) carry, permit to be carried, possess or control; or
- (d) place in the water or assist in placing in the water,

any chemical, poison or noxious substance, bomb, electrical device, or material (whether of manufactured or of natural origin), dynamite or explosive substance or device.

(2) No person shall -

- (a) land, transship, buy, sell, deal in, transport, receive or possess any fish or fish product taken by any means which contravenes this section; or
- (b) fail or refuse to give, on request to any authorised officer, information regarding-
 - (i) an activity described in subsection (1), or the support of or any contribution to such activity; or
 - (ii) the source of the supply of any fish or fish product referred to in paragraph (a).

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

(4) A person who commits a second or subsequent offence shall be liable on conviction to a fine of no less than twice the previous fine.

(5) In proceedings for an offence under this section, a certificate in writing given by the Head of the Compliance Department stating the cause of death or injury of any fish and on the advice of an expert or other qualified person is, in the absence of proof to the contrary, conclusive evidence of its contents.

(6) For the purposes of this section, any explosive, poison or other noxious substance found on board any vessel or vehicle is presumed, in

the absence of proof to the contrary, to be intended for a purpose referred to in subsection (2).

(7) All fish and fish products seized under this section shall be forfeited to the State and any vessel or vehicle used to transport such fish or fish products may be forfeited to the State.

Tampering with or destruction of property in the fisheries waters prohibited.

41. (1) No person shall, within the fisheries waters, remove any fish from any fishing gear, enclosure or storage device unless he is the owner or is acting with the authority of the owner.

(2) No person shall tamper with, destroy, damage or knowingly or intentionally impair the functioning of any fishing gear, enclosure or storage device that belongs to another person.

(3) No person shall tamper with, destroy, damage, remove or take any part of a fish aggregating device, artificial reef, mooring buoy, float, trap or other device which has been authorised and deployed in accordance with this Act that belongs to another person unless such other person has expressly given permission to do so.

(4) Nothing in this section shall limit the powers of an authorised officer or prevent the disposal of unauthorised gear or equipment under this Act.

(5) Any person who contravenes sub-sections (1), (2) or (3) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe

Use, possession on vessel, import, purchase or sale of prohibited gear.

42. (1) No person shall use for fishing any fishing gear that does not conform to requirements of this Act or regulations and no operator of a vessel shall, where it is prohibited, permit such fishing gear on board any vessel in the fisheries waters.

(2) No person shall import, buy or sell fishing net or any other fishing gear prohibited pursuant to this Act.

(3) Any person who contravenes sub-section (1) or (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition, the prohibited gear shall be forfeited to the State.

Prohibition of trade in fish products or other fisheries resources.

43. (1) No person shall buy, sell, possess or otherwise be in possession of fish products, or any other fishery resource taken or obtained in contravention of this Act.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition, all fish or fish products shall be forfeited to the State.

Prohibition of sale or export of adulterated or contaminated fish products.

44. (1) Any person who knowingly sells or exports fish or fish products intended for human consumption shall comply with all applicable food quality, health and sanitation laws and shall not sell or export such fish or fish products if he has reasonable cause to believe that they -

- (a) are adulterated;
- (b) are contaminated with or contain a poisonous or harmful substance or pathogenic micro-organisms;
- (c) have not met lawful inspection standards; or
- (d) are otherwise injurious to human health.

(2) Any person who contravenes sub-section (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition any fish or fish products that do not comply with the requirements in subsection (1) shall be forfeited to the State.

Prohibition of interference with inspected fish or fish product.

45. (1) No person shall, except with the written permission of the Director-

- (a) remove, alter or interfere with a trade description, seal, stamp or other mark applied to a container or a container system unit containing any fish or fish product that has been inspected by an authorised officer;
- (b) add to, remove from, or otherwise change the composition of any consignment of fish that has been certified as inspected by an authorised officer; or
- (c) unseal or leave unsealed any boxes that have been inspected by an authorized officer.

(2) Any person who contravenes sub-section (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition any fish or fish products in the contravention shall be forfeited to the State.

Prohibition to deploy, maintain fish

46. (1) No person shall deploy, maintain, monitor or recover a fish aggregating device or associated electronic equipment in the fisheries waters, and no Sierra Leone fishing vessel shall deploy, maintain, monitor or recover a

aggregating device without permission. fish aggregating device or associated electronic equipment in areas beyond national jurisdiction, except with permission of the Director of Fisheries and in accordance with such conditions as may be prescribed, or as the Director of Fisheries may specify or as are otherwise specified in this Act and an applicable access agreement or international conservation and management measure.

(2) A person who contravenes any conditions or requirements imposed under subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Declaration of and protected or endangered species. **47.** (1) The Minister may, on the advice of the Director of Fisheries and in consultation with the relevant Ministry, Department or Agency, by statutory instrument, declare any aquatic animal or plant protected or endangered -

- (a) under an international convention ; or
- (b) on the declaration by the Director of Fisheries based on the best available scientific evidence.

(2) No person shall take, land, sell, deal in, transport, receive, buy, possess, import or export aquatic animal or plant declared as protected or endangered under this section without the written permission of the Director of Fisheries.

(3) Any person who contravenes sub-section (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition, the fish or fish products shall be forfeited to the State.

Activities contrary to the laws of another State. **48.** (1) No person shall, within Sierra Leone or in the fisheries waters, on their own account or in any other capacity-

- (a) cause or permit a person acting on their behalf to take, import, export, land, transship, transport, sell, receive, acquire or buy any fish or fish product that was caught in contravention of the laws of another State; or
- (b) use or permit a vessel to be used to engage in fishing or related activities for a purpose referred to in paragraph (a).

(2) In this section, “illegal fish or fish product” means fish or fish product taken, possessed, transported or sold in violation of any law or regulation of another State or of any international conservation and management measure, but does not include fish taken on the high seas

contrary to the law of another State where Sierra Leone does not recognise the jurisdiction of that State over those fish.

(3) Any person who contravenes sub-section (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

(4) Where an international agreement with another State provides for a fine, penalty or other determination or any portion of it to be remitted to that State on conviction or other process, such remittance shall be made after all costs and expenses incurred by Sierra Leone have been deducted.

Pollution of the fisheries waters prohibited. **49.** (1) No person shall attempt or cause another person to prepare for the introduction of or introduce into the fisheries waters, directly, indirectly, deliberately or accidentally, any deleterious substance, including substances which may have toxic, hazardous or other harmful properties or effects in relation to fish or the aquatic or marine environment, and which may adversely affect the habitat or health of the fish.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and be liable for full compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat to its previous state.

PART VII -DEVELOPMENT AND REGULATION OF AQUACULTURE

Aquaculture activities requirement. **50.** (1) No person shall engage in aquaculture activities except in accordance with this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe

Aquaculture Development Plan. **51.** (1) The Director of Fisheries, shall, in consultation with the Scientific, Economic and Technical Committee, prepare an aquaculture development plan with the objective of promoting the sustainable development of aquaculture in Sierra Leone in accordance with the purposes and objectives of this Act.

(2) The Aquaculture Development Plan shall have a duration of at least three years and shall be renewed, modified or replaced at the end of each three year period.

(3) The aquaculture development plan shall include-

(a) a statement of the objectives and

priorities of the plan and a strategy for achieving those objectives;

- (b) performance indicators to monitor the extent to which the objectives of the plan are being attained;
- (c) a strategy for monitoring progress at least on an annual basis, and as appropriate an evaluation of the implementation of the aquaculture plan that preceded it;
- (d) a description or identification of any area of water which is suitable for aquaculture and the type of aquaculture for which the area is suitable;
- (e) a description of suitable methods for undertaking any type of aquaculture;
- (f) identification of suitable or unsuitable species of fish for aquaculture;
- (g) requirements or standards for water quality, aquaculture waste, escapement, environmental impact assessments and the introduction, transfer and release of fish for purposes related to aquaculture; and
- (h) any other matter concerning aquaculture which the Minister or Director of fisheries, marine resources management and Aquaculture considers appropriate.

Collaboration with Local Councils. 52. (1) The Director of Fisheries shall, in collaboration with Local Councils and other relevant bodies, ensure that-

- (a) aquaculture development is ecologically sustainable and allows rational use of the resource shared by aquaculture and other activities; and
- (b) the livelihood, culture and traditions of local communities and their access to fishing grounds are not affected by aquaculture development.

Prohibition to deprive any community of traditional access to fishing grounds. **53.** (1) No person shall, by carrying out aquaculture activities, deprive a local community of its traditional access to fishing grounds without good cause.
(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition shall restore the local community its traditional access.

Local Council responsibility to monitor non-commercial Aquaculture. **54.** (1) Local Councils shall, based on the advice of the Ministry, monitor all aquaculture practices in areas within their jurisdiction other than semi-commercial and commercial aquaculture operations regulated by this Act.
(2) Where in the opinion of any person or Local Council that any fish in or fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, or epidemic proportions, the person or Local Council shall notify the Director of Fisheries.

(3) The Director of Fisheries shall, if satisfied with the opinion of the person or Local Authority, give notice in writing to the owner of the aquaculture facility or waters requiring the destruction of all fish or fish products in the said facility or waters or the taking of such other measures as the Director may specify in the notice.

(4) A person who receives a notice under subsection (3) shall comply with its requirements at his own expense, and in default of compliance, the Local Authority may enter upon the relevant area and take or cause to be taken such measures as may be necessary for complying with the requirements of the notice and any expenses incurred shall be recoverable as a civil debt from the person so notified.

(5) A person who contravenes subsection (3) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition shall be responsible for costs directly associated with the resulting damage.

Restriction on Aquaculture species. **55.** (1) No person shall, without written permission granted by the Director of Fisheries -
(a) introduce or cause to be introduced into Sierra Leone or the fishery waters of Sierra Leone any species of fish or any genetically modified fish;
(b) transfer any eggs, fingerlings or seed of exotic or genetically modified species of fish from one aquaculture facility in Sierra Leone to another or from any location in Sierra Leone to another;

- (c) import or export live fish for the purpose of aquaculture; or
- (d) release into the fishery waters any fish except for indigenous wild fish caught in Sierra Leone;

(2) The Director of Fisheries may grant permission for any activity in subsection (1) subject to such conditions he considers appropriate.

(3) A person who contravenes sub-section (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Inspection of aquaculture species.

56. (1) The Director of Fisheries may inspect or cause to be inspected any fish before or after they are imported for the purpose of aquaculture and inspect or cause to be inspected any fish produced by aquaculture operations that are intended for export.

(2) The Director of Fisheries may seize, hold, authorise to quarantine, disinfect or destroy any live fish that have been imported or that are intended for import or export for purposes of aquaculture and shall take such measures where he determines that the species are diseased or highly contaminated.

Aquaculture waste.

57. (1) A person engaged in aquaculture in Sierra Leone shall ensure that aquaculture waste-

- (a) does not cause an unsightly or offensive condition; and
- (b) is secured or treated in a manner designed to prevent it being blown, washed or swept off.

(2) Where an aquaculture licensee fails to fulfil or contravenes the conditions set out in subsection (1), the Director of Fisheries may notify the licensee in writing of the requirement to take measures to restore the licence area to such standard as he may specify, within a stated period of time.

(3) A licensee who is notified by the Director of Fisheries under subsection (2) shall promptly comply with the notice.

(4) A licensee who contravenes subsection (1) and (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition shall be responsible for the costs of decontamination and restoration.

Escape of aquaculture stock.

58. (1) A person engaged in commercial aquaculture in Sierra Leone shall minimise the risk of the escape of aquaculture stock into the wild.

(2) Where there has been an escape of hatchery reared aquaculture stock, or damage to a farming structure or equipment that may lead to the escape of hatchery reared aquaculture stock occurs, a licensee shall take immediate measures to minimise the damage and to restore any damage caused to the extent possible.

(3) A person engaged in aquaculture in Sierra Leone shall, within 12 hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility, notify the Director of Fisheries of the escape or damage, including the following-

- (a) the species of fish affected;
- (b) the date (or an estimate of the date) on which the escape or damage took place;
- (c) the number and biomass (or an estimate of the number and biomass) of the fish that have escaped;
- (d) the age or developmental stage of the fish at the time of their escape; and
- (e) details of the circumstances in which the escape or damage took place; and

(4) A person engaged in commercial aquaculture in Sierra Leone shall, within 7 days after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility, notify the Director of Fisheries in writing of the action taken to deal with it.

(5) A person who contravenes this section commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Use of drug, chemical etc. restricted.

59. (1) No person shall use in an aquaculture facility any drug, pharmaceutical, antibiotic or other chemicals for the treatment of fish diseases or for the enhancement of fish growth without the written approval of the Director of Fisheries.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Interfering with aquaculture facility prohibited.

60. (1) No person shall, without a valid licence-

- (a) interfere with or harvest the product of an aquaculture facility without the written authority of the licensee;

- (b) place any object in the water, or promote or undertake any activity in a manner so as to obstruct an aquaculture operation being carried out by another person;
- (c) destroy, damage, displace or alter the position of any equipment lawfully deployed in connection with an aquaculture licence; or
- (d) without lawful excuse cause the release of any product of an aquaculture facility.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe and in addition shall fully compensate the licensee for any damage which is a direct result of his contravention.

Trans-boundary aquaculture ecosystems.

61. (1) Subject to applicable regional and international law, the Minister shall initiate dialogue with other riparian States to ensure that governments and aquaculture farmers are obliged to protect trans-boundary aquatic ecosystems from-

- (a) escapement of aquaculture species into shared water bodies;
- (b) waste from aquaculture activities;
- (c) diseases that are likely to become or have reached epidemic proportions; and
- (d) effluent that might adversely affect trans-boundary aquatic ecosystems.

PART VIII- JURISDICTION, PROCEDURE, FINES AND LIABILITIES

Jurisdiction.

62. (1) An act or omission committed within the jurisdiction of Sierra Leone which constitutes a contravention of this Act shall be dealt with as if such act or omission had taken place in Sierra Leone within the jurisdiction of the High Court.

(2) Where an authorised person appointed under this Act is exercising any powers or performing duties conferred on him by this Act beyond the fisheries waters in connection with any act or omission of any person in contravention of this Act, that act or omission shall be deemed to have been committed within the jurisdiction of the High Court as described in subsection (1).

(3) Authority to prosecute shall be afforded to any authorised person appointed or performing duties under this Act or designated under a relevant international agreement or international conservation and management measures to bring action against any person for any act or omission that-

- (a) occurs within the jurisdiction of Sierra Leone as described in sub-section (1);
- (b) is actionable under this Act or any other law of Sierra Leone; or
- (c) is a violation of an international agreement or international conservation and management measure pursuant to which the authorized person was authorised,

notwithstanding the nationality or permanent residence of such authorised person.

Procedure. **63.** (1) An offence under this Act shall be prosecuted before a court, except where summary administrative proceedings are taken under Part IX.

(2) Where the Director of Public Prosecution believes on reasonable grounds that there has been any violation of this Act he shall commence such prosecution, state the time within which this will occur; or decide not to prosecute and state the reason.

General offences. **64.** (1) Every person who contravenes or fails to comply with this Act or any notice, direction, restriction, requirement or condition given, made or imposed under this Act, other than a requirement to pay a sum of money, commits an offence.

(2) Every person who commits an offence under any section of this Act for which no other penalty is provided is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Maximum fines and guidelines. **65.** (1) Unless as otherwise provided in this Act, the maximum fines for contraventions of this Act shall be as the Minister may, by statutory instrument, prescribe.

(2) In setting the fine or determination in judicial or administrative proceedings taken pursuant to this Act, such fine shall not be greater than the maximum level that the Minister may, by statutory instrument, prescribe and shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities.

(3) In particular, the relevant judicial or administrative proceeding shall take into account -

- (a) the seriousness of the offence, taking into consideration the-
 - (i) maximum level of fine;
 - (ii) international and national best practices in relation to serious offences, including their definition in international fishery instruments;
 - (iii) degree of impact of the offence on the fishery resources, the environment and the economic and social well being of citizens of Sierra Leone;
 - (iv) scope of the offence;
 - (v) duration of the offence;
 - (vi) whether personal injury or loss of life was involved; and
 - (vii) associated offences, if multiple offences were committed;
- (b) the situation of the offender, taking into consideration-
 - (i) the material and other benefits received as a result of commission of the offence;
 - (ii) whether it is a first offence;
 - (iii) whether multiple offences are involved;
 - (iv) whether the offender was acting alone or associated with others in committing the offence;
 - (v) the likelihood that the offender will repeat the offence;
 - (vi) the impact of the level of fine on the offender; and
 - (vii) an aggravated penalty shall be required for offences involving assault, obstruction or bribery of an authorised officer, observer or fish quality inspector, damage to gear or vessels, personal injury, loss of life, illegal fishing or damage to the environment.

Deprivation of monetary benefits.

66. Where a person is convicted of an offence under this Act, and the court is satisfied that as a result of committing the offence that person acquired monetary benefits or monetary benefits accrued to that person, the court may order that person to pay a fine in an amount equal to the court's finding of the amount of such monetary benefits, notwithstanding the maximum amount of the relevant fine.

Notification.

67. (1) Any notification required under this Act must be in writing.

(2) Except as otherwise specified in this Act, if under this Act any notice or other document is to be given, served on or furnished to any person, that notice or other document may be-

- (a) given to the person personally;
- (b) given personally to any other person authorised to act on behalf of the person;
- (c) in the case of a notice or document to be given or served in the course of or for the purpose of any proceedings for an offence under this Act, given to such person as the Court may direct;
- (d) except in the case of a notice or document referred to in paragraph (c), sent by post to the person, or any other person authorized to act on that person's behalf, at the person's usual or last known place of business or abode;
- (e) except in the case of a notice or document referred to in paragraph (c), sent by electronic transmission to the person, or any other person authorised to act on the person's behalf, at the person's usual or last known address, and for the purpose of this paragraph -
 - (i) "electronic transmission" means any transmission of information sent electronically; and includes any transmission sent by facsimile, electronic mail, or electronic data transfer; and
 - (ii) "address" includes a facsimile number or an electronic mail address.

(3) Where the operator of a foreign fishing vessel is a defendant in a prosecution for an offence under this Act, then, notwithstanding any other law, service on the defendant of any summons or other documents may also be effected -

- (a) by being delivered personally to the agent of the vessel on behalf of the defendant or being

brought to the notice of the agent if that agent refuses to accept it on behalf of the defendant;

- (b) by being sent to the agent of the vessel, by registered mail to that agent on behalf of the defendant at the agent's last known or usual place of residence or that agent's place of business; or
- (c) where no agent has been nominated in respect of any foreign vessel, by being delivered or sent under paragraph (a) or (b) to the master of the vessel.

(4) Any notice or document so sent by post or electronic transmission is deemed to have been given, served or received 7 working days after the date on which it was posted or sent, unless the person to whom it was posted or sent proves that, otherwise than through that person's fault, the notice or document was not received.

Imprisonment of non-nationals.

68. Where an offence under this Act has been committed in the exclusive economic zone by a person who is a national of another State, that person may not be sentenced to a term of imprisonment in the absence of any agreement to the contrary between Sierra Leone and the State of which that person is a national.

Continuing offences.

69. On each day that an offence continues, a separate offence shall be deemed to have been committed.

Costs incurred by State.

70. (1) Upon application by the State, the Court may, on conviction for an offence under this Act, order the owner and as applicable the charterer of a vessel, body corporate or other entity involved in the offence, jointly and severally, to bear the cost or expenditure incurred by the State, in connection with-

- (a) the seizure of a foreign vessel for an offence against this Act;
- (b) the prosecution for an offence in accordance with this Act; and
- (c) the repatriation of the master or crew of any vessel seized under this Act.

(2) The amount of any costs or expenditure ordered by the Court under subsection (1) may be recovered in the same manner as a fine.

(3) Nothing in subsection (1) shall be deemed to allow for the recovery of any cost or expenditure that has already been recovered under any other order made under this Act.

Higher maximum penalty for Bodies

71. (1) Where a body corporate is convicted of an offence under this Act, a fine of up to three times the maximum fine specified for the offence may be imposed.

corporate.

(2) The Court shall, in imposing a fine under subsection (1), report fully in writing on details of the expert evidence upon which its judgment was based.

Banning Order.

72. (1) In addition to any other fine or penalty provided under this Act, the Court may order any person and vessel to be banned from fishing in the fisheries waters or engaging in any other activity for which a licence is required under this Act for a period up to 5 years if that person and vessels has committed a second or subsequent offence under this Act.

(2) A person, including the operator of any vessel, commits an offence if he contravenes or fails to comply with an order made under subsection (1), and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

Default penalty for non-payment.

73. In addition to any fine or penalty imposed under this Act, the Court may order a default penalty for non-payment of fines, not exceeding 1 percent per day of the total amount of the fine or penalty.

Liability for non-payment of pecuniary penalties.

74. (1) The following amounts may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a court of competent jurisdiction in the name of the State.

(2) For the purposes of subsection (1), the following shall be deemed to be civil proceedings –

- (a) pecuniary penalties not specifically designated as fines;
- (b) forfeitures incurred under or imposed under this Act, and the liability to forfeiture of any article seized under this Act;
- (c) all rents, charges, expenses and duties; and
- (d) all other sums of money payable under this Act.

Liability for loss or damage.

75. A person who commits an offence under this Act may, on conviction, be liable for -

- (a) any loss or damage caused by the offence;
- (b) any costs incurred in detecting, apprehending, investigating or prosecuting the offence; and
- (c) any costs incurred in detaining or seizing any property, fish, article or thing in respect of that offence,

and the amount of compensation for such loss, damage or costs may be awarded by the Court as restitution in addition to, and recovered in the same manner as, a fine.

Liability of companies and officers of companies.

76. (1) Except as provided in this section, where an employee, officer or agent of a partnership, corporation, firm, company or any other business enterprise commits an offence under this Act, the partnership, corporation, firm, company or any other business enterprise shall also be deemed to have committed the same offence if –

- (a) the employee, officer or agent was acting within the scope of his employment or authority, or apparent employment or authority; and
- (b) the partnership, corporation, firm, company or other business enterprise—
 - (i) expressly or impliedly authorised the act or omission that constituted the offence; or
 - (ii) had direct or indirect knowledge of the act or omission that constituted the offence.

(2) Except as provided in sub-section (3), every director or other person concerned with the management of a body corporate, partnership, corporation, firm, company or other business enterprise engaged in activities under this Act commits an offence if an offence under this Act is committed by any member or employee of that entity.

(3) It shall be a defence to liability under this section for the director or other person concerned with the management of the entity to prove that –

- (a) he used due diligence to secure compliance with this Act; or
- (b) the offence was committed without his knowledge, consent, collusion or collaboration.

Liability of operators.

77. (1) In any proceedings under this Act, the act or omission of a crew member of a fishing vessel or a person working in association with a fishing vessel is deemed to be the operator of the vessel, unless otherwise expressly provided.

(2) The operation of subsection (1) shall not absolve a crew member or other person of any liability he may have under this Act.

Liabilities of principal of agent or actions.

78. (1) Where a person, (“the principal”), is required by or under this Act to do or refrain from doing anything, every act or omission of any person acting or purporting to act as agent for or on behalf the principal in respect of any such requirement is deemed for the purposes of this Act to be the act or

omission of the principal, unless the principal proves that the person purporting to act as agent had no authority, either express or implied, to act as the principal's agent in carrying out the act or omission.

(2) The operation of sub-section (1) does not absolve the principal of any liability he may have under this Act.

PART IX - ADMINISTRATIVE AND JUDICIAL PROCEEDINGS

Decision to proceed administratively.

79. (1) The Director of Fisheries may, with the written consent of the Director of Public Prosecutions, proceed administratively against any person who has or may have committed an offence under this Act, if that person consents in writing to the Head of the Monitoring, Control, Surveillance and Enforcement Department to proceed administratively.

(2) The Director of Fisheries shall promptly notify the person charged that he may, within 7 working days of receiving such notification, either consent to, or refuse summary administrative proceedings.

(3) Where the person charged consents to summary administrative proceedings, the person shall notify the Director of Fisheries in writing that he -

- (a) admits to having committed the offence that he is charged with committing; and
- (b) consents to the charge being dealt with by summary administrative proceedings.

(4) Upon notifying the Director of Fisheries of his consent to summary administrative proceedings under sub-section (3), the person charged shall -

- (a) be deemed to have consented to any seizure which took place in accordance with this Act in relation to the offence that is subject to the summary administrative proceedings, and to have waived any right to a probable cause hearing; and
- (b) not engage in fishing or any related activity in the fisheries waters until an administrative penalty has been paid in full.

(5) Upon receiving the notification given under sub-section (3), the Director of Fisheries shall notify the Director of Public Prosecutions that the matter is being dealt with in accordance with this Part.

(6) On receipt of a notification under subsection (5), the Director of Public Prosecutions may refrain from prosecuting the person charged with an offence under this Act while the matter is being dealt with under this Part,

unless in his opinion there is a public interest in proceeding with the prosecution.

(7) Where the person fails to respond to the Director of Fisheries written notice under subsection (3), within 7 working days, the Director shall refer the matter to the Director of Public Prosecutions.

**Summary
administrative
proceedings.**

80.(1) The Director of Fisheries may, upon receiving the notification cause a Compounding Agreement to be drawn up in consultation with the Attorney General to formalise the terms and conditions upon which the Ministry of Fisheries and Marine Resources will accept on behalf of Sierra Leone from the person charged an Administrative Penalty, the amount of which -

- (a) shall be determined in accordance with any report that may be prepared by the Head of Monitoring, Control and Surveillance Department in consultation with the Attorney General regarding the details of the offence and applicable fine or penalty levels;
- (b) must not exceed the maximum fine or penalty prescribed, plus the fair market value of any fish caught illegally but shall be 75% or more of the maximum fine;
- (c) also includes such amount that may be necessary to deprive the person of monetary benefits acquired or saved by the person as a result of the commission of the offence based on an assessment by an expert that would otherwise be acceptable in a court of law; and
- (d) may include the costs to the State.

(2) Summary administrative proceedings shall be null and void if the full amount of the penalty determined under sub-section (1) is not paid within 14 days of the notification of such penalty assessment to the person subject to the proceedings and the matter shall immediately be referred to the Director of Public Prosecutions.

(3) On payment of the penalty in full under this section, the Director of Fisheries may order the release of any item seized under this Act or of the proceeds of sale of such item on such conditions as he may determine.

(4) A Compounding Agreement under subsection (1) may provide that any item used or involved in the commission of the offence be confiscated or forfeited to the State.

Evidence of participation in summary administrative proceedings not to be used in prosecution. **81.** The fact that a person charged with an offence consented to summary administrative proceedings under this Part and any admission made in summary administrative Act. shall not be used against that person in the prosecution of the offence under this administrative Act.

Summary payment of administrative fine. **82.** A person may pay an administrative fine for such specified offences, in accordance with such procedures, at such time, and in such amounts and to such authority as may be prescribed, and no further legal proceedings shall be taken in respect of that offence.

PART X - EVIDENCE

Certificate evidence. **83.** The Head of the Monitoring, Control, Surveillance and Enforcement Department or any person designated by the Director, in writing, including an authorised officer, may give a certificate stating that -

- (a) a specified vessel was or was not on a specified date a Sierra Leone fishing vessel, a locally based foreign fishing vessel or a foreign fishing vessel;
- (b) a specified vessel or person was or was not on a specified date the holder of any specified licence, or certificate of registration;
- (c) an appended document is a true copy of the licence or certificate of registration for a specified vessel or person and that specified conditions were attached to such document;
- (d) a particular location or area of water was on a specified date within the fisheries waters, or within a closed, limited, restricted or in any other way controlled area of the fisheries waters, or an area of the fisheries waters subject to specified conditions;
- (e) an appended chart shows the boundaries on a specified date of the fisheries waters, closed or limited areas or other maritime areas or zones delineated for any specified purpose;
- (f) a particular item or piece of equipment is a fishing gear;
- (g) the cause and manner of death of, or injury to, any fish is as stated;

- (h) an appended document is a true copy of a valid and applicable charter agreement, or fisheries management agreement;
- (i) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;
- (j) an appended position or catch report or other record was given in respect of a specified vessel;
- (k) a specified fishing vessel is or is not on a list of illegal, unreported and unregulated fishing vessels maintained by a regional fisheries management organization;
- (l) a specified vessel, mobile transceiver unit or other item fulfils or does not fulfil registration requirements under this Act, an applicable international conservation and management measures;
- (m) an appended document is a true certificate of calibration of a specified measuring device;
- (n) an offence was committed under the laws of another State, as declared in an appended copy of a statement signed by competent authorities of that State;
- (o) specified international conservation and management measures are in force, as declared in an appended copy of a statement signed by Head of the Compliance Department, or equivalent, of the international organization or arrangement which adopted such measures;
- (p) a certification as to the condition of fish given under this Act was made in accordance with this Act and by the person who is signatory to the certificate;
- (q) a photograph is a true and accurate representation of what it is meant to represent
- (r) a photograph was taken by a specified person; or
- (s) any specified return, log, record or information required to be kept or furnished under this Act was or was not kept or furnished.

Certificate

84. (1) Where in any proceedings under this Act the place or area

**of location
of vessel.**

in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to the prosecution of an offence charged, then the place or area stated in a certificate given by an authorised officer or surveillance officer shall be prima facie evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.

(2) An authorised officer shall, in any certificate made under subsection (1), state -

- (a) his name, address, official position, country of appointment and the authority under which he is appointed;
- (b) the name and call sign (if known) of the fishing vessel concerned;
- (c) the date and time or period of time that the vessel was in the place or area;
- (d) the place or area in which it is alleged the vessel was located;
- (e) the position fixing instruments used to fix the place or area stated and their accuracy within specified limits;
- (f) that he checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly; and
- (g) if a position fixing instrument which is not judicially recognised as notoriously accurate is used, that he checked the instrument used as soon as possible after the time concerned against an instrument that is judicially recognized as notoriously accurate.

(3) For the purposes of this section, "authorised officer" includes observers and those charged with similar responsibilities in other States including surveillance officers.

**Mobile
transceiver
units-
presumption
and
certificate.**

85. (1) All information or data obtained or ascertained by the use of a mobile transceiver unit required under this Act shall be presumed, unless the contrary is proved, to -

- (a) come from the vessel so identified;
- (b) be accurately relayed or transferred;

- (c) be given by the operator, including the master, owner and charterer of the vessel,

and evidence may be given of information and data so obtained or ascertained whether from a printout or visual display unit.

(2) The presumption in paragraph (1) applies whether or not the information was stored before or after any transmission or transfer.

(3) A mobile transceiver unit installed and operated in accordance with this Act shall be judicially recognised as notoriously accurate.

(4) An authorised officer or other person authorised in writing by the Director of Fisheries, may give a certificate stating -

- (a) his name, address and official position;
- (b) that he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from a mobile transceiver unit;
- (c) the date and time the information was obtained or ascertained from the mobile transceiver unit and the details of the information;
- (d) the name and call sign of the vessel on which the mobile transceiver unit is or was located as known to him or as ascertained from any official register, record or other document; and
- (e) a declaration that there appeared to be no malfunction in the mobile transceiver unit, its transmissions, or other machines used in obtaining or ascertaining the information.

Photographic evidence; date and time stamped. **86.** (1) Where a photograph is taken of any fishing or related activity and simultaneously the date, time and position from which the photograph is taken are superimposed upon the photograph, then it shall be presumed unless the contrary is proved that the photograph was taken on the date, at the time and in the position so appearing.

(2) The presumption in sub-section (1) shall arise only if -

- (a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and

- (b) the photograph was taken by an authorised officer or observer or under their supervision.

(3) Any authorised officer or observer who takes or supervises the taking of a photograph described in sub-section (1) may give a certificate appending the photograph stating -

- (a) his name, address, official position, country of appointment and the authority under which he is appointed;
- (b) the name and call sign (if known) of any fishing vessel appearing in the photograph;
- (c) the name of the camera, watch, clock or other instruments supplying the date and time and the position fixing instrument;
- (d) that he checked the instruments referred to in paragraph (c) a reasonable time before and after the taking of the photograph and that they all appeared to be working correctly;
- (e) the matters set out in paragraphs (a) and (b) of subsection (2); and
- (f) the accuracy of the position fixing instrument used within specified limits.

Validity and procedures for certificate.

87. (1) Unless the contrary is proved, a document purporting to be a certificate given under this Part shall be deemed to be such a certificate and to have been duly given.

(2) Where a certificate issued under this Part is served on a defendant 14 or more days before its production in court and the defendant does not, within 7 days of the date of service, serve notice of objection in writing on the prosecutor, then the certificate is, unless the court finds the defendant is unduly prejudiced by any failure to object, conclusive proof of all the facts averred in it.

(3) Where a certificate issued under this Part is served on a defendant -

- (a) 7 or more days, but less than 14 days, before its production in court in any proceedings under this Act; or
- (b) 14 or more days before its production in court in any proceedings under this Act

and an objection is notified in accordance with subsection (2),

the certificate is, unless the contrary is proved, prima facie evidence of all the facts averred in it.

(4) Any omission from or mistake made in a certificate issued under this Part does not render it invalid unless-

- (a) the Court considers such omission or mistake is material to any issue in the proceedings concerned; or
- (b) the defendant is unduly prejudiced by the omission or mistake.

(5) Where in any proceedings a certificate made under this Part is produced to the court, the prosecution is not obliged to call the maker of the certificate and the court shall, where material, rely on the facts stated in the certificate unless the contrary is proved.

Presumptions. **88.** (1) All fish found on board any fishing vessel which has been used in the commission of an offence under this Act shall be presumed to have been caught during the commission of that offence, unless the contrary is proved.

(2) Where, in any legal proceedings under this Act -

- (a) the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement vessel or aircraft as being the place in which the event took place is presumed to be the place in which the event took place; and
- (b) the production of a written copy or extract of the entry certified by an authorised officer as a true copy of the accurate extract is prima facie evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft.

(3) Where in any legal proceedings relating to an offence under this Act -

- (a) an authorised officer gives evidence of reasonable grounds to believe any fish to which the charge relates were taken in a specified area of the fisheries waters; and
- (b) the court considers that, having regard to that evidence the grounds are reasonable,

all the fish shall be presumed to have been so taken, unless the contrary is proved.

(4) Where in any legal proceedings for an offence under this Act-

- (a) an authorised officer gives evidence of reasonable grounds to believe that any fish to which the charge relates were taken by the use of driftnets; and
- (b) the court considers that, having regard to the evidence, the grounds are reasonable,

all the fish shall be presumed to have been so taken, unless the contrary is proved.

(5) Where any information is given in respect of any fishing or related activity of a fishing vessel, it is presumed to have been given by the operator, including the master, owner and charterer of the vessel concerned, unless it is proved that it was not given or authorised to be given by any of them.

(6) Any entry in writing or other mark in or on a log, chart or other document required to be maintained under this Act or used to record the activities of a fishing vessel is deemed to be that of the operator, including the master, owner and charterer of the vessel.

(7) Any position fixing instrument on board a vessel or aircraft used for the enforcement of this Act is presumed to be accurate.

(8) Where the operator of a foreign fishing vessel not licensed under this Act is navigating through the fisheries waters and refuses or otherwise fails to report information it shall be presumed, in the absence of evidence to the contrary, that all fish found on board have been caught within the fisheries waters in contravention of this Act.

Strict liability.

89. In a prosecution for an offence under this Act, it is not necessary for the prosecution to prove that the defendant intended to commit an offence or engage in any conduct that comprises the offence.

Interfering with evidence.

90. (1) No person shall interfere with evidence, which may be related to an offence under this Act.

(2) Without limiting the generality of sub-section (1), no person shall -

- (a) being on board any vessel being pursued, about to be boarded or notified that it will be boarded by a authorised officer, whether within or beyond fisheries waters, throw overboard or destroy any fish, fish product, equipment, document, explosive, noxious substance or other thing with intent to avoid its seizure or

the detection of any offence against this Act;

- (b) remove from custody any vessel, fish, fish product, equipment or other item held in custody under this Act, or act or omit to act so that a vessel, fish, fish product, equipment or other item held in custody under this Act may be removed from custody, whether or not he knew that the vessel, fish, fish product, equipment or other item was being held in custody;
- (c) destroy, damage, render inoperative or otherwise interfere with any premises or facilities licensed under this Act; or
- (d) where a mobile transceiver unit is required under this Act, whether within or beyond the fisheries waters, destroy, damage, render inoperative or otherwise interfere with any part of such mobile transceiver unit aboard a vessel, or feed or input into a mobile transceiver unit or an applicable vessel monitoring system information or data which is not officially required or is meaningless.

(3) Any person who contravenes sub-section (1) or (2) commits an offence and is liable on conviction to such fine or to a term of imprisonment as the Minister may, by statutory instrument, prescribe.

PART XI - MISCELLANEOUS PROVISIONS

Repeal and savings.

91. (1) The 1994 Fisheries Management and Development Act is hereby repealed.

(2) Notwithstanding such sub-section (1), upon the coming into operation of this Act -

- (a) any valid licence or permission issued under the repealed Act continues to be valid under the terms and conditions and for the period originally stated in it, and may be varied, suspended, cancelled or renewed in accordance with this Act;
- (b) all regulations and orders made under, or continued by, the repealed Act are subject to such modifications and adaptations as may be necessary for conformity with this Act and continue until such time as-

- (i) new regulations or orders are made under this Act; and
- (ii) the new regulations or orders repeal the regulations or orders made under the repealed Act; and
- (c) every international agreement entered into by Sierra Leone under the repealed Act continues to apply until it is terminated or expires;
- (d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment, and the investigation, legal proceedings or remedy instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the repeal had not occurred;
- (e) all persons who at the commencement date are fisheries officers who have been appointed under the repealed Act shall continue to hold their office or remain in their employment at the same rank and grade in the public service and shall be subject to this Act;
- (f) any fisheries, management and development plans made under the repealed Act shall continue to have effect with the necessary modifications;

Regulations. **92.** The Minister may, by statutory instrument, make Regulations for giving effect to this Act.

MEMORANDUM OF OBJECTS AND REASONS

PART 1—PRELIMINARY – contains interpretation and application provisions providing definition of words used in the Bill and stating the areas or issues to which the Bill apply.

PART II- ADMINISTRATIVE PROVISIONS – vest responsibility for administration of Act on the Ministry of Fisheries and Marine Resources. It also provided for the appointment and functions of Director and Deputy Director of Fisheries and the establishment of a Scientific, Economic and Technical Committee.

PART III-FISHERIES MANAGEMENT, DEVELOPMENT AND CONSERVATION – states the objectives and purposes for management and development of fisheries and contain

other provisions dealing with conservation and management measures, Fisheries Management Plans and International and regional cooperation in fisheries management.

PART IV- REGISTRATION, LICENSING AND ARTISANAL FISHERIES – sets out the requirements for registration and licensing of fishing vessels and the grant and renewal of licences.

PART V- MONITORING, CONTROL, SURVEILLANCE AND ENFORCEMENT – establishes a Monitoring, Control, Surveillance and Enforcement Department and defines the functions and powers of authorised officers and persons. It also contains provisions relating to the establishment of an observer program and the appointment and functions of observers and fish quality control inspectors.

PART VI -PROHIBITED ACTIVITIES – provides a list of prohibited activities including the prohibition of - fishing with explosives, chemicals and associated activities; tampering with or destruction of property in the fisheries waters; use, possession on vessel, import, purchase or sale of prohibited gear; trade in fish products or other fisheries resources including sale or export of adulterated or contaminated fish products and interference with inspected fish or fish product.

PART VII -DEVELOPMENT AND REGULATION OF AQUACULTURE – provides for aquaculture activities requirement, Aquaculture Development Plan, collaboration with Local Councils, restriction on the introduction of new species of fish and genetically modified organisms, inspection regime and trans-boundary aquaculture ecosystems.

PART VIII- JURISDICTION, PROCEDURE, FINES AND LIABILITIES – outlines issues relating to - jurisdiction, procedure, general offences, fines, notification, costs and liability

PART IX - ADMINISTRATIVE AND JUDICIAL PROCEEDINGS – makes provision for administrative proceedings.

PART X – EVIDENCE – deals with matters relating to proof and evidence including - certificate of evidence, photographic evidence, presumptions, strict liability and interfering with evidence.

PART XI - MISCELLANEOUS PROVISIONS - contains repeal, savings and Regulations provisions.

Made this day of , 2017

Elesabeth Mans
Minister of Fisheries and Marine Resources

Freetown,
Sierra Leone,
, 2017