

SAINT CHRISTOPHER AND NEVIS

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LS

I assent,

CLEMENT A. ARRINDELL
Governor-General.

4th September, 1984.

SAINT CHRISTOPHER AND NEVIS

No. 4 of 1984

AN ACT to provide for the licensing of local and foreign fishing vessels, to confer upon the Minister the power to enter into arrangements or agreements dealing with access or otherwise in regard to fishery matters; to provide an institutional framework for the management, planning, development and conservation of fishery resources in Saint Christopher and Nevis; and for connected matters.

(By notice to be published in the Gazette)

Commencement.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:-

PART I PRELIMINARY

1. This Act may be cited as the Fisheries Act, 1984 and the provisions of this Act shall come into operation on such date or dates as the Minister may specify by Order published in the *Gazette*.

Short Title
and Com-
mencement.

2. In this Act unless the context otherwise requires:

Interpreta-
tion.

"access agreement" means an agreement under Section 7;

"aquaculture" includes mariculture;

"authorized officer" means any fisheries officer, any customs officer or police officer and any other person or category of persons designated as an authorized officer by the Minister under Section 27;

"court" means a magistrate's court;

"Chief Fisheries Officer" means the person appointed as Chief Fisheries Officer under Section 3(2)(a);

"fish" means any aquatic animal, whether piscine or not and includes shellfish, turtles, mollusc, crustacean, coral, sponge, echinoderms, their young and their eggs;

"fish aggregating device" means any man-made or partly man-made floating or submerged device, whether anchored or not, intended for the purpose of aggregating fish, and includes any natural floating object on which a device has been placed to facilitate its location;

"fisheries officer" means the Chief Fisheries Officer, Fisheries Officer, or Superintendent of Fisheries and such other officers appointed under Section 3(2);

"fisheries plan" means the plan for the management and development of fisheries prepared under Section 4;

"fishery" means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational and economic characteristics;

"fishery waters" means the waters of the exclusive economic zone,

territorial sea and internal waters as defined in any legislation dealing with demarcation of maritime areas and any other waters over which Saint Christopher and Nevis claims fisheries jurisdiction;

"fishing" means fishing for or catching or taking or killing fish by any method or placing any fish aggregating device and includes searching for fish;

"fishing licence" means a foreign fishing licence or a local fishing licence;

"fishing vessel" includes any vessel used for commercial fishing or related activities or sport fishing;

"foreign fishing licence" means a licence issued in respect of a foreign fishing vessel under Section 8;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel;

"local fishing licence" means a licence issued in respect of a local fishing vessel under Section 11;

"local fishing vessel" means any fishing vessel:

- (a) wholly owned by the Government or by any public corporation established by or under any law; or
- (b) wholly owned by one or more persons who are citizens of Saint Christopher and Nevis; or
- (c) wholly owned by any company, society or other association of persons incorporated or established under the laws of

Saint Christopher and Nevis of which at least 51 percent of the voting share are held by citizens of Saint Christopher and Nevis;

"locally based foreign fishing vessel" means any foreign fishing vessel based in Saint Christopher and Nevis which lands all its catch in Saint Christopher and Nevis;

"master" means the person or persons having control of a fishing vessel at any given time, and includes a fishing master, fleet commander or pilot having control of such vessel;

"Minister" means the Minister to whom matters relating to fisheries have been assigned;

"related activities" in relation to fishing means

- (a) trans-shipping fish to or from any vessel; or
- (b) storing, processing or transporting fish taken from the fishery waters up to the time it is first landed; or
- (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations; or
- (d) attempting or preparing to do any of the above;

"test fishing operations" means any fishing operations undertaken over a limited period of time with the approval of the Chief Fisheries Officer for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations;

PART II FISHERIES MANAGEMENT AND DEVELOPMENT

3. (1) The Minister shall take such measures as he thinks fit under this Act to promote the management and development of fisheries, so as to ensure the optimum utilization of the fisheries resources in the fishery waters for the benefit of Saint Christopher and Nevis.

Promotion
of fisheries.

(2) There may be:

- (a) a Chief Fisheries Officer; and
- (b) such other Fisheries Officers and other officers as may be necessary to give effect to this Act.

(3) Until such time as the Chief Fisheries Officer is appointed for the fisheries Division of the Ministry of Agriculture, the Chief Agricultural Officer shall be deemed to be the Chief Fisheries Officer.

4. (1) The Chief Fisheries Officer shall prepare and keep under review a plan for the management and development of fisheries in the fishery waters.

Fisheries
management
and develop-
ment plan.

(2) The fisheries plan shall:

- (a) identify each fishery and assess the present state of its exploitation;
- (b) specify the objectives to be achieved in the management of each fishery;
- (c) specify the management and development measures to be taken; and
- (d) specify the licensing programmes to be followed for each fishery, the limitations, if any, to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels.

(3) In the preparation and review of the fisheries plan the Chief Fisheries Officer shall consult with the local fishermen, local authorities, other persons affected by the fishery plan and with any Fishery Advisory Committee appointed under Section 5.

(4) The fishery plan and each review thereof shall be submitted to the Minister for approval.

Fisheries
Advisory
Committee.

5. (1) The Minister may appoint a Fisheries Advisory Committee to advise on the management and development of fisheries.

(2) Any Fisheries Advisory Committee appointed under this Section shall include the Chief Fisheries Officer and such other persons as the Minister may consider capable of advising on the management and development of fisheries.

Regional
cooperation
in fisheries.

6. (1) The Minister may enter into arrangements or agreements with other countries in the region or with any competent regional organization, providing for:

- (a) the harmonization of systems for the collecting of statistics, and the carrying out of surveys and procedures for assessing the state of the fisheries resources;
- (b) the harmonization of licensing procedures and conditions in respect of foreign fishing vessels;
- (c) schemes for the issuance of fishing licences in respect of foreign fishing vessels by a competent regional organization on behalf of the Minister and the recognition of regional licences issued by such organization, subject to such conditions as may be specified in the agreement or arrangement and to such additional conditions as the Minister may specify from time to time;

- (d) the taking of joint or harmonized enforcement measures in respect of foreign fishing vessels contravening fisheries laws in the region;
- (e) the establishment and operation of joint or regional fisheries management bodies where appropriate;
- (f) where appropriate, the establishment of a regional register of fishing vessels;
- (g) such other cooperative measures as appropriate including such measures for promoting the welfare of fishermen and matters relating to insurance of fishing vessels and gear.

(2) For the purpose of giving effect to any arrangement or agreement entered into under this Section, the Minister may by Order published in the *Gazette* and thereafter obtain the approval of Parliament by way of a Resolution to -

- (a) authorize any competent regional organization designated in the Order to issue fishing licences in respect of foreign fishing vessels on behalf of the Minister, within the limits set out in the Order;
- (b) exempt from the requirements of Section 8 any foreign fishing vessel or class of foreign fishing vessels holding valid regional fishing licences issued by a competent regional organization designated in the Order; and
- (c) prescribe the conditions to be observed by foreign fishing vessels exempted under paragraph (b) while fishing or navigating in the fishery waters.

(3) Any Order made under Subsection (2) shall be subject to a negative resolution of the National Assembly.

Fisheries
access
agreements.

7. (1) The Minister may enter into access agreements with other states and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those states or associations.

(2) The fishing rights allocated under access agreements entered into under this Section shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the fisheries plan.

(3) Any agreement entered into under this Section shall include a provision establishing the responsibility of the foreign state or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and with the laws relating to fishing in the fishery waters.

(4) For the purposes of this Section and Section 8 the term "State" shall include any regional organization which is empowered to negotiate access agreements in regard to fisheries development on behalf of the member states.

Foreign
fishing
licences.

8. (1) No foreign vessel of any state shall be used for fishing or related activities in the fishery waters without a valid foreign fishing licence issued under this Section.

(2) An application for a foreign fishing licence shall be made, in the prescribed form, to the Minister or to a competent regional organization authorized to issue fishing licences under Section 6(2)(a).

(3) Subject to the provisions of this Act and any regulations made under this Act, the Minister may issue a foreign fishing licence authorizing a foreign fishing vessel to be used in the fishery waters for such fishing or related activities as may be specified in the licence.

(4) Subject to Subsection (5), no foreign fishing licence shall be issued to any foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association of which the owner or charterer is a member, an agreement entered into under Section 7 to which the Government of Saint Christopher and Nevis is a party.

(5) Subsection (4) shall not apply to a licence issued in respect of:

- (a) test fishing operations; or
- (b) a locally based foreign fishing vessel.

(6) Where a fishing vessel is used in contravention of Subsection (1) or of any condition of the foreign fishing licence the master, owner and charterer of that vessel is each guilty of an offence and shall be liable on summary conviction to a fine not exceeding three hundred thousand dollars.

9. The fishing gear of any foreign fishing vessel which is prohibited by Section 8 from fishing within the fishery waters, shall be stowed in such manner as may be prescribed while within the fishery waters.

Stowage of gear.

10. No licence shall relieve any foreign fishing vessel or its master or crew of any obligation or requirements imposed by law concerning navigation, customs, immigration, health or other matters.

Observation of laws.

11. (1) No local fishing vessel shall be used for fishing or related activities in the fishery waters without being registered under this Section.

Registration of local fishing vessels.

(2) An application for registration shall be made in the prescribed form to the Chief Fisheries Officer.

(3) Subject to Subsection (4) of this Section, the Chief Fisheries Officer may register a local fishing vessel in the prescribed form.

(4) No application for registration of a local fishing vessel shall be refused except on any of the following grounds, namely:

- (a) that the vessel in respect of which the application is made does not have a valid certificate of inspection where so required under the laws governing merchant shipping, or is not in compliance with regulations prescribed under Section 40 relating to the safety of the vessel; or
- (b) such other grounds as are specified in this Act or any regulations made under this Act.

(5) Where a local fishing vessel is used in contravention of any of the conditions of registration, the master, owner or charterer of that vessel as the case may be, is guilty of an offence and shall each be liable upon summary conviction to a fine not exceeding two hundred dollars.

Validity of
fishing
licences.

12. (1) Unless earlier cancelled in accordance with Section 15, a fishing licence shall be valid for a period of not more than twelve months.

(2) Where a vessel registered as a local fishing vessel becomes a foreign fishing vessel, such registration shall automatically terminate.

(3) The term of a foreign fishing licence shall not extend beyond the term of validity of the applicable access agreement.

(4) No registration shall be transferable except with the written permission of the Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister.

Conditions
of fishing
licence and
registration.

13. (1) Every fishing licence and registration shall be in the prescribed form and shall be subject:

- (a) to such general conditions as may be prescribed;

- (b) to such general conditions as may be specified under Subsection (2); and
- (c) to such special conditions as may be specified under Subsection (3).

(2) The Minister may, by Order published in the *Gazette*, specify general conditions additional to those prescribed to which all fishing licences, fishing registration or any category of fishing licences shall be subject including conditions relating to open and closed seasons, prohibited fishing areas, minimum mesh sizes and minimum species sizes.

(3) The Chief Fisheries Officer, or in the case of a foreign fishing licence, the Minister, may attach to any fishing licence such special conditions as he may think fit.

(4) The Chief Fisheries Officer, or in the case of a foreign fishing licence, the Minister, may from time to time, where he is satisfied that it is expedient for the proper management of fisheries in the fishery waters, vary any special conditions attached to any fishing licence.

(5) Where the Minister or the Chief Fisheries Officer varies any special conditions attached to any fishing licence he shall notify the licence holder of such variation as soon as practicable.

14. There shall be payable in respect of every foreign fishing licence such fees as may be prescribed and such royalties or other charges as the Minister may determine.

Fees,
royalties,
etc.

15. (1) The Minister, may cancel or suspend a foreign fishing licence on any of the grounds set out in Subsection (2).

Cancellation
or suspension
of
fishing
licences.

(2) A fishing licence may be cancelled or suspended where the Minister is satisfied that:

- (a) It is necessary to do so in

order to allow for the proper management of any particular fishery; or

- (b) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any regulations made thereunder, or of any condition of the licence or in breach of any applicable access agreement; or
- (c) he is required or authorized to do so in accordance with the provisions of any arrangement or agreement entered into under Section 6.

(3) Before the Minister cancels or suspends a fishing licence, the holder of such licence or a person representing him shall be entitled to be heard by the Minister whenever it is possible to do so.

(4) Where a fishing licence has been cancelled or suspended under Subsection (1), notification of the cancellation or suspension shall be given to the person to whom the licence was issued.

(5) Where a fishing licence has been suspended or cancelled on the grounds specified in Section 15(2)(a), a proportion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licensee at his request.

Notice.

16. (1) Any notification given under Section 13(5) or 15(3) shall be in writing, except as otherwise specified in Subsection (2).

(2) In the case of a foreign fishing vessel, a notification referred to in Subsection (1) may be in writing or by telex, radio or such other form as the Minister deems appropriate.

Appeals.

17. Any person aggrieved by any decision of

the Chief Fisheries Officer under Section 11, may within 21 days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final.

18. (1) The Minister may grant to any person a licence to operate a fish processing establishment on payment of such fees and subject to such conditions as may be prescribed from time to time.

Fish
processing
establish-
ments.

(2) Any person who operates or allows to be operated any fish processing establishment except under a licence granted under this Section and in accordance with the conditions of such licence is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars.

(3) In this Section "fish processing establishment" means any establishment on any land, premises or other place on or in which fish are canned, dried, gutted, salted, iced, chilled, frozen or otherwise processed for sale by wholesale in or outside Saint Christopher and Nevis.

19. (1) The Minister may by notice published in the *Gazette*:

Local
fisheries
management
areas.

(a) designate an area as a local fisheries management area;

(b) designate any fishermen's co-operative or fishermen's association or other appropriate body representing fishermen in the area as the Local Fisheries Management Authority for that area.

(2) Where there is no appropriate body representing fishermen in the area, the Minister may promote the formation of such a body.

(3) The Chief Fisheries Officer shall, to the extent he deems it practicable, provide to any Local Fisheries Management Authority, such assistance as may be reasonably necessary

for the performance of its functions.

By-laws.

20. (1) A Local Fisheries Management Authority established under Section 19 may recommend by-laws to the Minister in regard to the conduct of fishing operations in the designated area.

(2) Any by-laws so recommended under Sub-section (1) may be approved by the Minister and published in the *Gazette*.

(3) Such by-laws may provide that a breach of any by-law made under this Section shall constitute an offence and may provide for penalties on summary convictions of a fine not exceeding one hundred dollars.

PART III

MARINE RESERVES AND CONSERVATION MEASURES

Fishing
priority
areas.

21. The Minister may, by Order published in the *Gazette*, declare any area of the fishery waters, to be a fishing priority area, where he considers that special measures are necessary to ensure that authorized fishing within the area is not impeded or otherwise interfered with.

Leasing of
land for
aquaculture.

22. (1) The Governor-General on the advice of the Minister may lease any land including the areas of the foreshore and sea-bed for purposes of aquaculture, if he is satisfied after such enquiry as he may deem necessary that such lease will not substantially prejudice the rights of the members of the public thereto and such lease shall be in conformity with any regulations made under Section 40 relating to the leasing of land for aquaculture.

(2) The provisions of the Title by Registration Act (Cap. 279) shall apply, *mutatis mutandis*, to the leasing of lands including foreshore and sea-bed for purposes of aquaculture under this Section.

(3) Notwithstanding any provisions of the Title by Registration Act (Cap. 279) the Minister shall, by notice published in the *Gazette* give particulars of any lease granted

under Subsection (1) giving the boundaries of the area leased and the Minister may restrict and control by regulations made under Section 40, the use of such land including foreshore or sea-bed by members of the public.

23. (1) The Minister may, by Order published in the *Gazette*, declare any area of the fishery waters and, as appropriate, any adjacent or surrounding land, to be a marine reserve where he considers that special measures are necessary:

Marine
reserves.

- (a) to afford special protection to the flora and fauna of such areas and to protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to flora and fauna in danger of extinction;
- (b) to allow for the natural regeneration of aquatic life in areas where such life has been depleted;
- (c) to promote scientific study and research in respect of such areas; or
- (d) to preserve and enhance the natural beauty of such areas.

(2) Any person who, in any marine reserve, without permission granted under Subsection (3):

- (a) fishes or attempts to fish;
- (b) takes or destroys any flora and fauna other than fish;
- (c) dredges, extracts sand or gravel, discharges or deposits waste or any other polluting matter, or in any way disturbs, alters or destroys the natural environment; or
- (d) constructs or erects any

buildings or other structures
on or over any land or waters
within such a reserve;

is guilty of an offence and shall be liable on
summary conviction to a fine not exceeding one
thousand dollars.

(3) The Minister, or any person author-
ized by him in writing, may give written
permission to do any of the things prohibited
under this Section where the doing of such
things may be required for the proper management
of the reserve or for any of the purposes re-
ferred to in Subsection (1).

Fisheries
research.

24. (1) The Minister may, on the submission
of a fisheries research plan, approved by the
Chief Fisheries Officer, grant permission for
any vessel or person to undertake research into
fisheries in the fishery waters and in doing so
may exempt such vessel or person from any of the
provisions of this Act.

(2) The Minister may attach such
conditions as he deems fit to any permission
granted under Subsection (1).

(3) Any person who undertakes fisheries
research in the fishery waters:

- (a) without permission under Sub-
section (1); or
- (b) in contravention of any con-
dition or conditions attached
to the permission under Sub-
section (2),

is guilty of an offence and shall be liable on
summary conviction to a fine not exceeding one
thousand dollars.

(4) Any permission or exemption granted
under this Section shall be in writing.

Prohibited
fishing
methods.

25. (1) Any person who:

- (a) permits to be used, uses or
attempts to use any explosive,

poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or

- (b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceding paragraph,

is guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

(2) Any explosive, poison or other noxious substance found on board any fishing vessel shall be presumed, unless the contrary is proved, to be intended for the purpose referred to in subsection (1)(a).

(3) Any person who lands, sells, receives or is found in possession of any fish taken in contravention of Subsection (1)(a), knowing or having reasonable cause to believe them to have been so taken, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

(4) For the purposes of this Section, a certificate as to the cause and manner of death or injury of any fish signed by the Chief Fisheries Officer or by any person authorized by him in writing shall be accepted as prima facie evidence in a court without proof of the signature of the person appearing to have signed the certificate or his official character.

(5) For the purposes of Subsection (4), the defendant to proceedings brought under this Section is entitled to 14 days notice in writing of the prosecution's intention to adduce the

said certificate.

Possession
of
prohibited
fishing
gear.

26. Any person who within the fishery waters, uses for fishing or has on board any fishing vessel, in circumstances which indicate an intention to use for fishing in the fishery waters:

- (a) any net the mesh size of which does not conform to the prescribed minimum mesh size for that type of net; or
- (b) any type or other fishing gear which does not conform to any standards prescribed for that type of trap or other fishing gear; or
- (c) any other net or fishing gear which is prohibited by the Act,

is guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars.

PART IV ENFORCEMENT

Designation
of
authorized
officers.

27. The Minister may designate from time to time by notice published in the *Gazette* such persons as he deems fit, including members of the enforcement authority of any country or of any regional or sub-regional marine enforcement entity, to be authorized officers for the purpose of this Act.

Powers of
authorized
officers.

28. (1) For the purposes of enforcing this Act, any authorized officer may, without a warrant:

- (a) stop, board and search any foreign fishing vessel in the fishery waters and any local fishing vessel in or outside the fishery waters and stop and search any vehicle;
- (b) require to be produced, examine and take copies of any licence or other document required

under this Act;

- (c) require to be produced and examine any fishing net or other fishing gear whether at sea or on land.

(2) Any authorized officer, where he has reasonable grounds to believe that an offence has been committed under this Act may, without a warrant:

- (a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reason to believe that the offence has been committed or where he has reason to believe that fish illegally taken are being stored;
- (b) take samples of any fish found in any vessel, vehicle or premises searched under this Section;
- (c) seize any vessel (together with its gear, stores and cargo), vehicle, fishing gear, net or other fishing appliance which he has reason to believe has been used in the commission of the offence or in respect of which the offence has been committed;
- (d) seize any fish which he has reason to believe has been caught in the commission of the offence, or is being possessed in contravention of this Act;
- (e) seize any explosive or poison which he has reason to believe has been used or is being possessed in contravention of this Act.

(3) Any vessel seized under Subsection (2) and the crew thereof shall be taken to the nearest or most convenient port and the vessel may be detained pending the outcome of any legal proceedings under this Act or its release on bond or other form of security in accordance with the provisions of Section 33.

(4) Where, following the commission of an offence under this Act by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of the fishery waters, the powers conferred on authorized officers under this Section shall be exercisable beyond the limits of the fishery waters, in the circumstances and to the extent recognized by international law.

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

(6) An authorized officer in exercising any of the powers conferred on him by this Section shall on demand produce such means of identification as may be necessary to show that he is an authorized officer for the purposes of this Act.

Sale of
perishable
goods
seized.

29. (1) Any fish or other articles of a perishable nature seized under this Act may, at the direction of the Chief Fisheries Officer, be sold and the proceeds of sale shall be held and dealt with in accordance with the provisions of this Act.

(2) Where, after making all reasonable efforts, the Chief Fisheries Officer is unable to sell the fish or other articles referred to in Subsection (1), or where such fish or other articles are unfit for sale, he may dispose of them in such other manner as he thinks fit.

Immunity of
authorized
officers.

30. No action shall be brought against any authorized officer in respect of anything done

or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Act.

31. Any person who obstructs, assaults or threatens with violence an authorized officer in the exercise of the powers conferred on him under this Act is guilty of an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years or to both.

Assaults
etc.
authoriz
officers

32. Where an offence against this Act has been committed by any person on board or employed on a fishing vessel, the master of such vessel shall also be guilty of the offence.

Liabilit
of waste

33. The court may, on application therefore, order the release of any fishing vessel (together with its gear, stores and cargo), vehicle, fish, fishing gear, net or other fishing appliance seized under this Act on receipt of a satisfactory bond or other form of security from the owner or other person claiming such property.

Release
vessel e
on bond.

34. Where any person is convicted of an offence against this Act, the court, in addition to any other penalty imposed:

Court's
powers o
forfeitu

(a) may order that any fishing vessel (together with its fishing gear, stores and cargo) and any vehicle, fishgear, net or other fishing appliance, used in the commission of the offence be forfeited;

(b) shall order that any fish caught in the commission of such offence or the proceeds of sale of such fish and any explosive, poison or other noxious substance used in the commission of such offence be forfeited.

35. (1) Until the contrary is proved, all

Presumpt

fish found on board any fishing vessel which has been used in the commission of an offence against this Act shall be presumed to have been caught in the commission of that offence.

(2) Where in any legal proceedings instituted under this Act following the seizure of a foreign fishing vessel by an enforcement vessel, the place in which an event is alleged to have taken place is in issue, the place stated in a certified copy of the relevant entry in the logbook or other official record of the enforcement vessel as being the place in which the event took place shall be presumed, until the contrary is proved, to be the place in which such event took place.

onus of
proof.

36. In any legal proceedings under this Act where the defendant is charged with having committed an offence under which a licence, authority or the permission of any person is required for the doing of any act, the onus shall be on the defendant to prove that at the time to which the charge related, the requisite licence, authority or permission was duly held.

disposal of
vessel etc.
forfeited.

37. Any vessel (together with its gear, stores and cargo), and any vehicle, fishing gear, net or other fishing appliance, explosive or poison ordered to be forfeited under this Act shall be disposed of in such manner as the Minister may direct.

jurisdiction.

38. Any offence against any of the provisions of this Act or any regulations made under this Act committed within the fishery waters by any person, or any such offence committed outside such waters by any citizen of, or person ordinarily resident in Saint Christopher and Nevis or by any person on board any local fishing vessel, shall be triable in any court of law as if such offence had been committed in any place in Saint Christopher and Nevis within the local limits of the jurisdiction of such court.

Minister's
powers to

39. (1) Subject to Subsection (4) the Minister may where he is satisfied that any

person has committed an offence against this Act or any regulations made under this Act compound such offence by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence and such sum shall forthwith be paid into the Consolidated Fund.

compound
offences.

(2) On compounding an offence under this Section the Minister may order the release of any article seized under Section 28 or the proceeds of sale of such article under Section 29 on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

(3) No offence shall be compounded under this Section unless the person who has committed the offence has expressed his willingness in a prescribed form that the offence be so dealt with.

(4) The compounding of an offence under this Section shall be notified in writing under the signature of both parties to the appropriate Magistrate's court.

(5) In any proceedings brought against any person for an offence against this Act or any regulation made under this Act, it shall be a defence if such person proves that the offence with which he is charged has been compounded under this Section.

(6) This Section does not apply to any offence against Section 25 or Section 31 of this Act.

PART V GENERAL

40. (1) The Minister may make regulations generally for the management and development of fisheries in the fishery waters.

Regulations.

(2) In particular, without limiting the generality of Subsection (1), the Minister may make regulations for all or any of the following purposes:

- (a) providing for the licensing, regulation and management of any particular fishery;
- (b) prescribing fisheries management and conservation measures including prescribed mesh sizes, gear standards, minimum species sizes, closed seasons, closed areas, prohibited methods of fishing or fishing gear and schemes for limiting entry into all or any specified fisheries;
- (c) prescribing the constitution, functions and duties of the Fisheries Advisory Committee appointed under Section 5;
- (d) regulating the catching and utilization of fish taken incidentally when fishing for a species for which a licence has been issued;
- (e) providing for the registration and licensing of fishermen, fishing gear and other fishing appliances;
- (f) organizing and regulating sport fishing in the fishery waters;
- (g) regulating the use of scuba gear and hookah gear;
- (h) regulating or prohibiting the use of spear guns or other similar device;
- (i) regulating the landing, marketing and distribution of fish;
- (j) regulating the transiting of foreign fishing vessels through the fishery waters, including the manner in which fishery gear is to be stowed;

- (k) making provision for rewards to be paid to any person providing information on the operations of foreign fishing vessels leading to a conviction or compounding of offence under this Act;
- (l) prescribing the form of foreign fishing licences which may take the form of a written licence or a telexed or cabled authorization;
- (m) providing for the implementation of any agreement or arrangement entered into under Section 6;
- (n) regulating or prohibiting the entry into any fishing priority area, established under Section 21, of any class of vessel and prescribing any activities which may not be undertaken in that area;
- (o) providing for the licensing and control of fish aggregating devices and for rights to fish aggregated by such devices;
- (p) regulating:
 - (i) the management and protection of marine reserves and fishing priority areas,
 - (ii) the taking of coral and shells,
 - (iii) the setting of fishing reserves,
 - (iv) the taking of aquarium fish,
 - (v) aquaculture development,

- (vi) the use of land leased for aquaculture;
- (q) prescribing measures for the protection of turtles, lobsters, and conchs;
- (r) to provide for the control or prohibition of the import and export of fish;
- (s) prescribing standards and other measures for the safety of local fishing vessels and fishermen;
- (t) regulating or prohibiting the entry into any land leased for the purposes of aquaculture or into any waters superjacent to such land;
- (u) prescribing any other matter which is required or authorized to be prescribed.

(3) The Minister may, by Regulation, provide that the breach of any regulation made under this Act shall constitute an offence and may provide for penalties on summary conviction of a fine not exceeding five hundred dollars.

exemptions.

41. The Minister may, by Order published in the *Gazette*, exempt from the requirements of Section 11, any type or class of fishing vessel, or any local fishing vessels under a size specified in the Order.

avings.

42. Any regulations, Orders and notices made under the Fisheries Act (Cap. 91) and the Turtle Ordinance (Cap. 99) and any licences, permits and other authorizations issued under that Act or that Ordinance shall, except in so far as they are inconsistent with this Act, continue to have effect as though made or issued under this Act.

43. The Fisheries Act (Cap. 91) and Turtle Repeals.
Ordinance (Cap. 99) are hereby repealed.

HERMAN LIBURD
Speaker.

Passed the National Assembly this 30th day
of August, 1984.

F ALPHONSO LEWIS
Clerk of the National Assembly.

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PART V GENERAL

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