

THE FISHERIES ACT, 1938

ARRANGEMENT OF SECTIONS

SECTION

TITLE

PART I

PRELIMINARY

1. Short title and Commencement.
2. Application.
3. Interpretation.

PART II

DEVELOPMENT AND CONTROL OF THE  
FISHING INDUSTRY

4. Minister may regulate fish industry.
5. Management and Development plans.
6. Management measures.
7. Minister may impose restrictions.
8. Protection of traditional fisheries.
9. Preference to be given to citizens.

PART III

LICENSING OF FISHING OPERATIONS

10. Licensing of fishing vessels.
11. General licensing provisions.
12. Other licences in general.
13. Beach seines.
14. Authorization for conducting scientific research.

PART IV

CONSERVATION MEASURES

15. Prohibited method of fishing.
16. Use of prohibited gear.
17. Catching minimum prescribed size.
18. Use of spear guns.
19. Powers of officers.
20. Fish seized may be sold.

SECTION

TITLE

- 21. Person arrested to be brought before court.
- 22. Release of vessel, etc. on bond.
- 23. Forfeiture.
- 24. Extended jurisdiction of courts.
- 25. Compounding of offences.

PART V.

PENALTIES

- 26. Penalty for fishing by explosive and noxious substances.
- 27. Penalty for offences related to licences.
- 28. Penalty for other offences.
- 29. Obstruction of <sup>an</sup> authorized officer.
- 30. Payment of fine by foreigners.

PART VI

MISCELLANEOUS PROVISIONS

- 31. Exemptions.
- 32. Minister's powers to make regulations.
- 33. Repeals and Savings.

ACT NO .8 OF 1988

I ASSENT

IDRIS ABDUL WAKIL  
PRESIDENT OF ZANZIBAR  
AND  
CHAIRMAN OF THE REVOLUTIONARY  
COUNCIL.

8<sup>th</sup> April ..... 1989.

AN ACT TO REPEAL CERTAIN LAWS RELATED TO  
FISHING AND TO ENACT BETTER PROVISIONS  
RELATED TO THE MANAGEMENT AND DEVELOPMENT  
OF FISHERIES IN THE TERRITORIAL WATERS OF  
ZANZIBAR AND MATTERS CONNECTED THEREWITH  
AND INCIDENTAL THERETO.

ENACTED BY THE HOUSE OF REPRESENTATIVES  
OF ZANZIBAR.

PART I  
PRELIMINARY

Short title  
and  
commencement.

1. This Act may be cited as the Fisheries  
Act, 1988 and shall come into operation on such  
date as the Minister may, by notice in the Gazette  
appoint.

Application.

2. This Act shall apply to the territorial  
waters of Zanzibar and its exclusive economic zone.

Interpretation.

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

"aquatic flora" means all aquatic plants and  
other members of the aquatic vegetable  
kingdom and includes corals, sponges and weeds;

"authorized officer" means the Director of Fisheries or any other officer or person authorized in writing by the Minister or the Director of Fisheries to exercise any power or to discharge any duty under this Act or any subsidiary legislation made hereunder;

"close period" means any period during which, in relation to any species or kind of fish, fish product or aquatic flora, such fish, fish product or aquatic flora, as the case may be, may not be captured, killed, injured, gathered or collected by any means whatsoever;

"controlled area" means an area declared to be a controlled area under this Act;

"Director" means the Director of Fisheries;

"exclusive economic zone" means ~~the water within~~ the area extending across the sea to a distance of two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured;

"fish" means all forms of aquatic or amphibious life (including turtles, crabs and shell fish) and includes the spat, brood, fry, spawn, ova and young of all such fish, and does include any aquatic or amphibious animal or the young of any such animal;

"fishing" means collection, capture, gathering, killing, snaring or trapping of fish, fish product or aquatic flora;

"fishing gear" means any net, line, cork, buoy, basket, trap, hook or other article, apparatus, structure, construction or installation whatsoever used for the purpose of fishing;

"fish product" means anything made, collected or obtained from fish and includes fish meal, dried fish, fish manure, offal, fish silage, canned fish, oil or any fish, pearl, mother-of-pearl, shell, beche demer, ambergris, larva and sponge;

"fishing vessel" means any boat or other aquatic or amphibious craft or vehicle used, outfitted or designed for the purpose of collecting, capturing, gathering, processing or transporting fish whether operating on, above or below water;

"fishing weir" means any erection, structure, construction or obstruction whatsoever placed across or in any waters and temporarily designed for the purpose of collection, gathering, capturing, killing or injuring of fish, fish product or aquatic flora, and includes stake nets and basket traps;

"immature" in relation to any species of fish means a fish of that species which is smaller in size or length than the size or length prescribed in relation thereto;

"landing" means the landing of fish, fish product or aquatic flora in Zanzibar, whether or not such fish, fish product or aquatic flora was collected, captured, gathered or otherwise obtained within or outside the territorial waters;

"licence" means licence issued under sections 4, 10, 13 and 18 of this Act;

"mesh" means the opening or space in a net enclosed by threads of the net or in the case of a wire net, by the strands of wire; and "mesh size" means the distance between each drag knot of the thread when measured wet and stretched, or, in the case of a wire net, the diameter of the smallest opening enclosed by strands of wire;

"Minister" means the Minister for the time being responsible for fisheries;

"net" means fishing net made of thread or wire or any other material whatsoever, designed to be used for the purpose of collecting, capturing, gathering, killing or injuring, fish, fish product or aquatic flora;

"product" or "aquatic flora" means anything made out of, or composed wholly or partly of, any aquatic flora;

"territorial waters" means the water within the area extending across the sea to a distance of twelve nautical miles measured from the mean low water along the coast of Zanzibar and the adjacent islands.

## PART II

### DEVELOPMENT AND CONTROL OF THE FISHING INDUSTRY

Minister may regulate fish industry.

4.(1) The Minister may, by order published in the Gazette, provide that no person shall engage in:-

- (a) fishing ;
  - (b) collecting, fathering or manufacturing fish products or products of aquatic flora;
  - (c) selling or marketing of fish, fish products, aquatic flora or products of aquatic flora;
  - (d) importing or exporting of fish, fish products, aquatic flora or products of aquatic flora,
- save under a licence issued by the Director of Fisheries or any other authorized officer to the owner of a fishing vessel.

(2) An order under subsection (1) may be made to apply to all fish, fish products, aquatic flora or products of aquatic flora or to any species or kind of fish, fish product, aquatic flora or product of aquatic flora.

Management  
and  
Development  
plans.

5.(1) The Director of Fisheries shall prepare and keep under review plans for the management and development of fisheries in Zanzibar.

(2) Each plan shall, on the basis of the best information available, assess the state of exploitation of each resource, its potential average, annual yield and the measures necessary to achieve its optimum utilization, and determine the amount of fish, if any, to be taken by foreign fishing vessels.

Management  
measures.

6.(1) The Director of Fisheries may impose by order or as a condition of a licence any of the following measures for the proper management of fish and fishing industry:

- (a) closed seasons for designated areas, species of fish or methods of fishing;
- (b) prohibited fishing areas for all or designated species of fish or methods of fishing;
- (c) limitations on the methods and gear, including mesh sizes of nets, that may be used for fishing; and
- (d) limitations on the amount, size, age and other characteristics and species or composition of species, of fish that may be caught, landed or traded;
- (e) establishing territorial parks, sanctuaries for any purpose whatsoever;
- (f) preventing the obstruction and pollution of territorial waters.

(2) Any order prohibiting the use of any gear in any area may prohibit the possession of such gear in such area.

Minister  
may impose  
restrictions.

7.(1) The Minister may, by order published in the Gazette, declare any area or waters to be a controlled area in relation to all fish, fish products or aquatic flora, or in relation to any species or kind of fish, fish product or aquatic flora.

(2) Where any area or any portion of territorial waters is declared to be a controlled area, no person shall, save with the authority in writing of the Director of Fisheries or any authorized officer, engage in or do any fishing in such area or waters.

(3) Any person who contravenes the provisions of this section, commits an offence and shall on conviction be liable to a fine of not less than twenty thousand shillings and not exceeding forty thousand shillings or to be sent to educational centre for a term not less than five years or to both such fine and committal to educational centre.

Protection  
of  
traditional  
fisheries.

8. The Minister shall, in co-operation with the other agencies of Government, promote the development of traditional and industrial fisheries and related activities in Zanzibar. He shall ensure that development of industrial fisheries does not unduly damage traditional fisheries, through such means as reserving areas for different kinds of fishing.

Preference  
to be given  
to citizens.

9. Where an order is made under section 4 or section 7, the Director of fisheries or any authorized officer shall not, save with the consent in writing of the Minister, grant any licence or authority, as the case may be to any person who is not a citizen of the United Republic of Tanzania, or, in the case of a body corporate, to any body corporate which is not incorporated by or under the Laws of Zanzibar.

PART III

LICENSING OF FISHING OPERATIONS

Licensing  
of fishing  
vessels.

10.(1) Any fishing vessels operating in the territorial waters, or in the exclusive economic zone, under the jurisdiction of Zanzibar, whatever their size or method of propulsion, shall be licensed.

(2) The Minister may establish categories of licences and set different scales of fees payable therefor on the basis of the type and propulsion of vessels, species of fish and other relevant factors.

(3) An application for a licence in respect of fishing shall be made in the prescribed form to the licensing officer designated by the Minister or, if no such officer has been designated, to the Director of Fisheries.

(4) Upon application duly made under subsection (3) and payment of the prescribed fee, the licensing officer may issue a licence in respect of a fishing vessel if he is satisfied that:

- (a) the issue of the licence is consistent with any applicable fisheries management plan; and
- (b) the applicant will comply with the conditions of the licence but otherwise he shall refuse to issue a licence.

(5) A licence issued under this section shall, unless revoked or suspended earlier, be valid for such a period not exceeding one year as may be stated thereon or prescribed by regulations.

General  
licensing  
provisions.

11.(1) Applications for licences shall be made in such forms as may be prescribed by regulations or as the Minister may require.

(2) A licence issued under this Act shall be subject to such terms and conditions, as may from time to time prescribed by regulations or order made by the Minister.

(3) It shall be a general condition of every licence issued under this Act or regulations made thereunder that the licensee shall comply with such requirements as the Director may establish concerning the making of statistical returns and the collection of information.

(4) The Director may revoke or suspend a licence for failure to comply with the provisions of this Act or regulations made thereunder, or any condition of the licence, or where such action is necessary for the proper management of fisheries:

Provided that any person who is aggrieved by the decision of the Director may appeal to the Minister whose decision shall be final.

(5) No licence shall be transferable to any other person or vessel except with the written permission of the licensing officer ordered upon such licence.

(6) Every vessel in respect of which a licence is issued under this Act shall be marked in such a manner as the Minister may prescribe.

(7) The Director shall cause to be maintained a register of all licences issued under this Act.

Other  
licences in  
general.

12. The Minister may, on the proposal of the Director of Fisheries make regulations requiring a licence, in addition to any licence required by section 10, for fishing with any gear or method with or without the use of vessel, or for processing fish or other marine organism.

Beach  
seines.

13.(1) A licensing officer may, on proper application therefor and upon payment of the prescribed fee, issue a licence authorizing the use of a seine for,

such stretch of beach or shore adjoining the sea or a lagoon, as may be specified in the licence.

(2) No person shall operate, or being owner allow to be operated any beach seine in any marine or lagoon waters except under authority of a valid licence issued under this section.

Authorization for conducting scientific research.

14. The Minister may by order in writing authorize any person or vessel to conduct scientific research or other activities for the proper management of fisheries, subject to such conditions, including requirements for the disposition of any catch, as the Minister may impose. An authorization issued under this section may exempt any person or vessel from any provision of this Act, or any regulation made thereunder.

#### PART IV

#### CONSERVATION MEASURES

Prohibited method of fishing.

15.(1) No person shall -

- (a) use or attempt to use any explosive, poison or other noxious substance for the purpose of killing, stunning or disabling fish so as to render such fish more easily caught; or
- (b) carry or have 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 paragraph (a) of this subsection.

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

(3) Where any explosive, poison or other noxious substance which can be used for the purposes referred to in subsection (1) is found in the possession or control of any person in the vicinity of the territorial waters under the jurisdiction of Zanzibar, shortly after any such explosive, poison or other noxious substance is proved to have been used in such waters, that person shall be presumed, until the contrary is proved to have used such explosive, poison or other noxious substance for such purposes.

(4) No person shall land, sell, buy, receive or possess any fish knowing or having reasonable cause to believe them to have been taken in contravention of the provisions of this section.

Use of  
prohibited  
gear.

16(1) No person shall use for fishing or possess, subject to subsection (2) have on board any fishing vessel in the territorial waters under the jurisdiction of Zanzibar:

- (a) any fishing net, the mesh size of which is less than the prescribed minimum size for that type of net in such area; or
- (b) any other fishing net or fishing gear that has been prescribed as prohibited in such area.

(2) Where any fishing gear is being transported through an area where the use of such gear is permitted such fishing gear shall, at all times while it is in the prohibited area, be kept stowed in the prescribed manner.

Catching  
minimum  
prescribed  
size.

17.(1) No person shall catch and retain, land, sell, buy, receive or have in his possession any fish of less than <sup>162</sup>/<sub>4</sub> minimum size prescribed for that species of fish.

(2) Any fish of a size less than the minimum size prescribed for that species of fish caught accidentally shall be returned to the water forthwith and with the least injury possible.

Use of  
spear guns. 18.(1) No person shall use a spear gun for fishing, except under the authority of a valid licence issued under this section.

(2) An application for the use of spear gun shall be forwarded by the licensing officer to the Minister for special approval. The Minister may grant such approval if he is satisfied that the use of a spear gun would not be inconsistent with the proper management of fisheries in Zanzibar.

(3) A licensing officer may, on proper application approved by the Minister and payment of the prescribed fee, issue a licence permitting the use of spear gun for fishing.

Powers of  
officers.

19.(1) For the purpose of enforcing this Act, any authorized officer may, without a warrant:-

- (a) stop and board any vessel in the territorial waters under the jurisdiction of Zanzibar, and he may inspect such vessel, its cargo, supplies, fishing gear and equipment;
- (b) stop and inspect any vehicle or vessel transporting fish;
- (c) require to be produced, examine and take copies of any licence, log or other documents required under this Act or regulations made thereunder;
- (d) require to be produced and examine any fish, net or other fishing gear;
- (e) upon reasonable payment therefor, take samples of any fish.

(2) Any authorized officer, where he has reasonable grounds to believe that an offence has been committed against this Act or regulations made thereunder, may, without a warrant:-

- (a) enter any premises which are not being used exclusively as a dwelling place, in which he has reason to believe is kept any fish,

fishin gear or other article used in the commission of the offence or in respect of which the offence has been committed;

- (b) arrest any person who he has reason to believe has committed the offence;
- (c) seize any fish, fishing gear, vessel, vehicle or other article 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.

(3) A written receipt shall be given for any article or thing seized under the preceding subsection and the grounds for such seizure shall be stated in such receipt.

Fish seized  
may be sold.

20. Any fish or other articles of perishable nature, seized under the provisions of section 19 may, on the direction of the Director of Fisheries, be sold and the proceeds of sale shall be delivered into the custody of the Director of Fisheries.

Person  
arrested,  
to be  
brought  
before  
court.

21. Any person arrested, or vessel or fishing gear seized, under section 19 shall be brought before a court as soon as reasonably practicable.

Release  
of vessel,  
etc. on  
bond.

22. Any vessel, fish or fishing gear seized under section 19 shall, upon application to the court and subject to the posting of a satisfactory bond or other security for the reasonable value thereof, be released to the court to be entitled thereto.

Forfeiture.

23. On convicting any person of an offence under this Act, the court, in addition to any penalty otherwise imposed:

- (a) may order any instrument used in connection with the offence, including any vessel so used, together with its fishing gear, equipment, stores and cargo, as well as any article in respect of which any offence has been committed to be forfeited;

- (b) shall order all fish found on board any vessel used in connection with the offence to be forfeited, except that any fish that are proved not to have been caught in the commission of an offence shall not be forfeited.

Extended jurisdiction of courts.

24. Where any offence is committed under this Act in the territorial waters or an economic free zone within the jurisdiction of Zanzibar; the Zanzibar courts shall be competent to hear and determine the case.

Compounding of offences.

25.(1) The Minister may, on the recommendation of the Director, if he is satisfied that a person has committed an offence under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section:

- (a) compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence; and
- (b) order the release of any vessel or other thing seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other thing.

(2) Any sum of money received under this section shall be dealt with as if it were a fine imposed by the court.

(3) Where proceedings are brought against any person for an offence against this Act, it shall be a good defence if the person proves that he has compounded the offence under this section.

PART V

PENALTIES

Penalty for fishing by explosive and noxious substances.

26. Any person who contravenes any of the provisions of subsection (1) of section 15 shall be guilty of an offence and shall on conviction be liable to a fine of not less than twenty thousand shillings and not exceeding thirty thousand shillings or to be sent to educational centre for a term of not less than three years or to both such fine and committal to an educational centre.

Penalty for offences related to licences.

27. Any person who contravenes any provision of sections 4, 10(1), 13(2) and 16 or any of the provisions of any order made under sections 6 and 7 shall be guilty of an offence and shall on conviction be liable to a fine of not less than forty thousand shillings and not exceeding sixty thousand shillings or to be sent to an educational centre for a term of not less than five years or to both such fine and committal to an education centre.

Penalty for other offences.

28. Any person who contravenes any provisions of sections 15(4), 17(1) and 18 shall be guilty of an offence and shall on conviction be liable to a fine of not less than two thousand shillings and not exceeding five thousand shillings or to be sent to an educational centre for a term of not less than three months or to both such fine and committal to an educational centre.

Obstruction of an authorized officer.

29. Any person who.

- (a) wilfully obstructs an authorized officer in the exercise of any powers conferred on him by this Act; and
- (b) Fails to produce or request by an authorized officer :-
  - (i) any licence, log-book, certificate or other document required to be maintained by or under this Act; or

- (ii) any fishing net or fishing gear; or fails to comply with any enquiry or requirement made by any authorized officer in accordance with the provisions of this Act,

shall be guilty of an offence and shall be liable on conviction to a fine of not less than five thousand shillings and not exceeding ten thousand shillings or to be sent to educational centre for a term of not less than three years or to both such fine and committal to an educational centre.

Payment of fine by foreigners.

30. Where a fine is imposed to a person other than a Tanzanian convicted for offences under this Act such fine may be paid in convertible currency equivalent to Tanzanian shillings.

PART VI  
MISCELLANEOUS PROVISIONS

Exceptions.

31.(1) The Minister may, if in his opinion it is in the public interest so to do, exempt any person or organization from all or any of the provisions of this Act or of any regulations made hereunder.

(2) The Director of Fisheries may, in the interest of sciences or research, issue certificate to exempt any person or organization from all or any of the provisions of this Act or any regulations made hereunder subject to such terms and conditions and for such period as may be specified in that certificate.

Minister's powers to make regulations.

32. The Minister may make regulations for the proper management, development and regulation of fisheries and related industries, and for the implementation of this Act, and may, in particular, make regulations for the following purposes :-

- (a) to prescribe the contents and presentation of any fisheries management plan;

- (b) to limit the number and type of vessels and other means employed in any fishery by such means as refusal to issue or renew licences, special licence and catch fees, preferential licensing in other fisheries;
- (b) to describe the conditions to be fulfilled by foreign participation in fisheries;
- (a) to establish the conditions to be observed by foreign fishing vessels which are within the territorial waters under the jurisdiction of Zanzibar.
- (e) providing for the form of application, fees, issue, suspension and cancellation prescribing and conditions of licences or authorities granted or given under this Act or any subsidiary legislation made hereunder;
- (f) requiring all or any category of fishing vessels to be registered;
- (g) prohibiting or regulating the use of any description of fishing gear; specification of fishing nets and size of meshes;
- (h) prohibiting, restricting or regulating the bringing into Zanzibar of any live fish, other than fish indigenous to Zanzibar;
- (i) prohibiting or regulating the sale of any fish, aquatic flora or any fish product or product of aquatic flora;
- (j) prohibiting or restricting the use of explosives poisonous or toxic substances for the purpose of fishing;
- (k) prohibiting or restricting the capturing, collection, gathering, killing or injuring of immature fish;

- (l) prohibiting or restricting the collection, removal or destruction of any variety of fish, aquatic flora, fish product or product of aquatic flora;
- (m) providing for the protection of spawning areas;
- (n) preventing the obstruction and pollution of territorial waters;
- (o) controlling the import and export of fish, aquatic flora, fish products or products of aquatic flora;
- (p) determining and imposing close periods;
- (q) prohibiting, regulating or controlling the activities of foreign fishing vessels with territorial waters; and or exclusive economic zone;
- (r) controlling and regulating construction, installation, size and specifications of fishing weirs;
- (s) in consultation with the Minister of Health, to regulate the handling, storage and processing of fish, including to prescribe the methods therefor, to prescribe standards for fish products, and to provide for inspection of fish trading and processing establishment and fish products;
- (t) to regulate the landing of fish and to prescribe and provide for the management and control of fishing ports and fish landing areas;
- (u) to prescribe conditions to any person to engage in any form of fishing, or of handling storage; transporting, processing, manufacturing or selling of products;

- (v) to organize and regulate fishermen's co-operatives, marketing and distributing of fish in general;
- (w) to provide for the registration and marks to be used to distinguish the ownership of fishing gear; to exempt any type of fishing gear, vessel or from the provision of this Act;
- (x) to promote and regulate the cultivation of fish and territorial parks;
- (y) to impose on any person engaged in fishing, marketing, processing including any fish dealer, the obligation to supply such information as may be necessary to improve the collection of statistics relating to the fishing industry.

Repeals  
and  
Savings.

33.(1) The following Decrees are hereby repealed:-

- (a) The Fish Protection Decree, 1948 as amended by the Fish Protection (Amendment) Decree, 1964;
- (b) The Local Fishing Decree, 1973 (Decree No.3);
- (c) The Control of Seaweed Decree (Cap.114) and the Seaweed (Royalties) Order, 1951 (G.N. No. 15-16).

Act No.3  
of 1983.

(2) The Licensing provisions under this Act shall apply notwithstanding the provisions of Trade Licensing Act, 1983 or any other law for the time being in force.

(3) Notwithstanding the repeals made under subsection (1) of this section, all licences, permits, authorizations and other instruments or documents granted or issued under the repealed laws shall so long as they on the date of commencement of this Act, continue in full force and effect until they expire, cease to have effect or are replaced by new ones issued or granted under this Act.

(4) Notwithstanding the repeals made under subsection (1) of this section, any regulations or order made under repealed laws prior to the commencement of this Act shall remain effective and in force unless it is sooner amended, revoked or replaced by legislation made under this Act.

Passed in the House of Representatives  
on the 21st day of December, 1988.

ABDUL-RAHMAN ALI SALEH  
CLERK TO THE HOUSE OF REPRESENTATIVES  
OF Z ANZIBAR.