

SIGNED this 29th day of April, 1988.

J. S. MOMOH,
President.

LS

No. 4



1988

Sierra Leone

The Fisheries Management and Development Act, Short title.
1988

Being an Act to provide for the Management, Planning and Development of the Fisheries of Sierra Leone and for connected purposes

[1988] Date of Commencement.

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows:—

PART I—PRELIMINARY

1. This Act shall come into force on such date as the Minister Commence-ment.
may by notice published in the *Gazette* appoint.

Interpreta-
tion.

2. In this Act, unless the context otherwise requires:
- "artisanal fisheries" means the traditional fishing by citizens of Sierra Leone using artisanal fishing vessels, traditional fixed fishing gear or traditional beach seines;
- "artisanal fishing vessel" means any local fishing vessel of less than 60 feet which is not motorized or which is powered by engines but does not include vessels used for recreational fishing;
- "authorized officer" means any public official within the Ministry or Ministry of Defence who is appointed as such under section 35;
- "Director" means the Director of Fisheries;
- "fish" means any aquatic animal, whether vertebrate or invertebrate, and its young, fry, eggs, spawn, but does not include aquatic birds;
- "fisheries waters" includes the territorial waters as defined in the Interpretation Act, 1971, and any other waters over which fisheries jurisdiction may be claimed as determined from time to time;
- "fisheries resources" means the stock or species of fish and any habitat or fish within the fisheries waters;
- "fishing" means—
- (a) the catching, taking, harvesting or killing of fish; or
 - (b) the attempted catching, taking, harvesting or killing of fish; or
 - (c) any activity which can reasonably be expected to result in the catching, taking, harvesting or killing of fish.
- "fishing gear" means any device or apparatus used for fishing whether or not it is used in connection with a vessel;
- "fishing vessel" means any vessel used for the following purposes—
- (a) fishing;
 - (b) the processing or storage of fish or fish products;
 - (c) the supply or support of such vessels, or
 - (d) the transportation of fish or fish products from the fishing grounds;

Act No. 8 of
1971.

but does not include any vessel used for the transportation of fish or fish products to or from a port of Sierra Leone as a part of its general cargo;

"fixed fishing gear" means fishing gear deposited on or attached directly or indirectly to the sea bed, and includes fish traps, fishing stakes and anchored gill nets;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel notwithstanding that such vessel may be registered under the Registration of Shipping Act, 1965. Act No. 26 of 1965.

"Government" means the Government of Sierra Leone;

"industrial fishing vessel" means any fishing vessel 60 ft. in length or longer;

"licensing officer" means the Director and any other officer authorized under Section 8 to issue and take other actions with regard to licences under this Act;

"local fishing vessel" means any fishing vessel—

- (a) wholly owned by citizens of Sierra Leone; or
- (b) wholly owned by any company, association or body of persons, corporate or incorporate, established under the laws of Sierra Leone—
 - (i) in which more than half the members are citizens; or
 - (ii) in the case of companies having a share capital in which at least fifty-one per cent of the shares are held by citizens;

but does not include a vessel that meets the ownership requirements of (a) or (b), but which in fact is directly or indirectly owned or controlled in any way whatsoever by a non-citizen;

"master" in relation to a fishing vessel, means the person for the time being having command or charge of the vessel;

"Minister" means the Minister for the time being charged with the responsibility for matters relating to Agriculture, Natural Resources and Forestry.

"Ministry" means the Ministry for the time being charged with the responsibility for matters relating to Agriculture, Natural Resources and Forestry.

"other aquatic resources" means any aquatic plant life;

"qualified company" means any company which is qualified to own a local fishing vessel as defined in this section;

"recreational fishing" means fishing for the recreational experience, and not for the purpose of subsistence or for barter or sale of fish;

"semi-industrial fishing vessel" means any local fishing vessel of less than 60 feet with fixed motorized propulsion but does not include vessels used for recreational fishing.

PART II—AUTHORITY AND ADMINISTRATION

Management. 3. Exclusive management and control over the fishery resources and other aquatic resources within the fishery waters are vested in the Government.

Authority of Minister. 4. The Minister shall have the authority and responsibility for the implementation of this Act.

Department and Director of Fisheries. 5. (1) There is hereby established within the Ministry the Department of Fisheries, which shall be headed by a Director.

(2) The Director shall be a person who is knowledgeable in matters relating to fisheries.

Duties and Powers of the Director. 6. The Director, subject to the policy guidance of the Minister, shall have responsibility for the management, planning and development of, and research into, the fishery resources and fisheries of Sierra Leone and shall supervise the Department of Fisheries.

Delegation by the Director. 7. The Director may delegate, in writing, the exercise of any or all powers and functions conferred upon him by this Act, except as may be specifically prohibited therein, to his deputy or such other officers as he may think fit.

Licensing Officers. 8. The Director shall be the Chief Licensing Officer and shall designate such other licensing officers as may be necessary by notice published in the *Gazette*.

Fisheries Advisory Board. 9. (1) There is hereby established the Fisheries Advisory Board which shall have the following functions—

(a) to advise the Minister on matters relating to the formulation and implementation of national policy for the management and development of fisheries and

(b) to co-ordinate the policies and actions of the ministries or other government agencies with respect to matters relating to fisheries.

(2) The Board shall consist of the following persons—

- (a) The Permanent Secretary to the Ministry of Agriculture, Natural Resources and Forestry, who shall act as Chairman;
- (b) The Director-General of Agriculture;
- (c) The Permanent Secretary of the Ministry of Defence or his representative;
- (d) The Solicitor-General or his representative;
- (e) The Development Secretary of the Ministry of National Development and Economic Planning or his representative;
- (f) The Secretary to the Minister of Foreign Affairs or his representative;
- (g) The Permanent Secretary of the Ministry of Trade and Industry or his representative;
- (h) The Financial Secretary or his representative;
- (i) The Permanent Secretary of the Ministry of Transport and Communications or his representative;
- (j) The Director of the Institute of Marine Biology and Oceanography, Fourah Bay College, University of Sierra Leone;
- (k) The Director, who shall act as Secretary to the Board; and
- (l) Four other members representing the industrial and artisanal fishing sectors, the consumers, and the Chamber of Commerce, Agriculture and Industry.

(3) The Board may co-opt other members representing other ministries or agencies of government as it may deem necessary.

10. (1) The Director shall establish a Scientific and Technical Committee. Scientific and Technical Committee and other Committees.

(a) The function of the Committee shall be to advise the Minister and the Director on the biological, social, economic, and technical aspect of fisheries.

(b) The Director shall appoint seven members to the Committee having knowledge in the disciplines listed in the

preceding paragraph;

(c) The Committee shall be chaired by the Director and shall meet twice a year or when summoned by the Director.

(2) The Director may establish such other Committees as he may think appropriate at the local or national level which shall be composed of fishermen or other persons actively involved in the fisheries of Sierra Leone to advise him on matters relating to the development and management of these fisheries and the welfare of fishermen.

(3) Reasonable allowances or expenses shall be paid to members attending meetings of any committee established under this section.

PART III—MANAGEMENT AND DEVELOPMENT OF THE FISHERIES OF SIERRA LEONE

Fishery
Management and
Development.

11. (1) The Director shall prepare and keep under continual review plans for the management and development of the fisheries in Sierra Leone.

(2) Each management and development plan, accompanied by available information shall—

- (a) identify the fishery resources and estimate the potential average annual yields;
- (b) assess the present state of exploitation of the fishery resources and taking into account all relevant biological, social and economic factors, determine whether the fishing activities should be increased, remain the same, or be decreased, and, if sufficient information is available, determine the total annual catch that may be allowed from each fishery;
- (c) specify the measures, if any, to be taken to promote the development of local fisheries;
- (d) determine the amount of the fishery resources, if any, to be made available to foreign fishing vessels on an annual basis under licencing agreements or other international agreements;
- (e) specify the conservation and management measures to be enforced to protect the fishery resources from over-exploitation;
- (f) specify the research necessary to enhance management of the fishery.

(3) Each management and development plan or modification thereto shall be submitted to the Minister for his approval.

(4) Upon approval of such management and development plans, the Minister shall prescribe such regulations as shall be necessary to implement their provisions.

12. The Director shall take into account the following objects and purposes in the preparation of fisheries management and development plans—

Objects and Purposes for Management and Development.

- (a) to establish priorities for the utilization of the fisheries resources which will provide the greatest overall benefits to the country;
- (b) to ensure the proper conservation of the fishery resource through the prevention of overfishing and the taking of a conservation approach toward harvesting when data about the fishery resource are lacking;
- (c) to base management practices on sound management principles and the best scientific information available, to be gained through national and international research programmes;
- (d) to minimize, to the extent practicable, fishing gear conflicts among users;
- (e) to give preference to the needs of local fisheries over those of foreign fisheries.

13. The Minister, in the implementation of this Act, may take such action as he deems necessary to protect and promote artisanal and semi-industrial fisheries, including—

Protection and Promotion of Artisanal and Semi-industrial Fisheries.

- (a) exempting indefinitely, or for such period of time as he may specify, such fisheries from any requirement concerning licencing and the payment of fees under this Act;
- (b) providing assistance in the establishment and development of fishing, processing or marketing co-operative societies;
- (c) establishing reserved areas for artisanal or semi-industrial fishing;
- (d) giving priority to artisanal or semi-industrial fisheries in the allocation of fishing licences or quotas; and
- (e) such other action as he deems necessary for the protection and promotion of such fisheries.

Consultation
on inter-
national
fisheries
manage-
ment.

14. (1) The Minister shall consult, as appropriate, with foreign governments and in particular with governments of States sharing the same or interrelated stocks with a view to—

- (a) ensuring the closest practicable harmonization or co-ordination of their respective fisheries management and development plans and regulations;
- (b) ensuring harmonization in the collection of statistics, the carrying out of surveys and procedures for assessing the state of the fisheries resources in the region;
- (c) providing, as appropriate, for the formulation of regional fisheries management and development plans, for the allocation of fishing effort and catch among states sharing the same stocks, and for taking regional or joint conservation measures;
- (d) establishing, on a bilateral or regional level as appropriate, arrangements regarding fishing rights with other States in accordance with the provisions of the relevant Fisheries Management and Development Plan.

(2) Consultations under this section may be undertaken either directly with the Governments or persons concerned, or through existing appropriate regional or sub-regional organisations, or International Agencies.

PART IV—LICENCING OF LOCAL FISHING VESSELS, FIXED FISHING GEAR OR BEACH SEINE

Licences
required.

15. (1) No local fishing vessel, fixed fishing gear or beach seine shall be used for fishing in the fisheries waters except under a licence issued in accordance with this Part.

(2) The Minister may make regulations extending the provisions of this section to require the licencing of local fishing vessels or any class of local fishing vessels to be used for transshipment, processing or storage of fish in the fisheries waters.

Applica-
tions for
Licences.

16. Applications for licences shall be made in the form and in accordance with the procedures prescribed by the Minister.

Local fishing
Licences.

17. (1) A licencing officer may, upon proper application made thereof and payment of the prescribed fee, issue a licence in respect of any local fishing vessel, fixed gear or beach seine:

Act No. 26
1965.

Provided that no licence shall be issued in respect of any local fishing vessel required to be registered under the Registration of Shipping Act, 1965, unless such vessel has been so registered;
and

Provided further that no licence shall be issued in respect of any local fishing vessel exceeding 15 net tons unless it holds such certificate of safety inspection as may be required by the Government.

(2) A licencing officer may refuse to issue a licence for which application has been made if he is satisfied —

- (a) that it is necessary to do so in order to allow for the proper management of any fishing in accordance with the terms of any fishery management and development plan prepared under section 11 and any general licencing instructions issued for the implementation of the plan; or
- (b) that the applicant or the vessel for which a licence is being sought has a documented history of non-compliance with fisheries laws, regulations or licence conditions and is unlikely to comply with such laws, regulations or conditions in the future if a licence is issued.

(3) Any decision taken under the preceding sub-section to refuse to issue a licence must, unless authorised under any general licencing instructions issued by the Director, have the approval of the Director.

(4) Any licence issued under this Part shall be subject to such conditions as may be set out in this Act or prescribed in regulations or orders made thereunder, or as may be otherwise specified by the Licencing officer.

18. Where a local fishing vessel, fixed fishing gear or beach seine for which a licence has been issued under this Part has been used in the commission of an act prohibited by this Act, or any regulation issued hereunder, or any licence condition, the Director may—

- (a) cancel such licence; or
- (b) suspend such licence for such time as he may deem appropriate; or
- (c) impose additional or modified conditions for such licence.

19. Any person aggrieved by the refusal of a licencing officer to issue a licence under Section 17 or by the suspension or cancellation of a licence already issued under Section 18, may appeal against such refusal, suspension or cancellation to the Minister within thirty days. The Minister's decision, which may not be delegated, shall be final.

Cancellation, suspension or modification.

Appeal against refusal to issue licence, etc.

Validity of
Licences.

20. (1) Unless otherwise provided in the licence, or by regulations issued under this Act, a licence shall be valid for not more than one year.

(2) A licence issued under this Part shall be valid for the species of fish and the type of fishing gear or method of fishing specified in the licence.

Transfer-
ability of
Licences.

21. (1) Except as otherwise provided in subsection (4), licences issued in respect of local fishing vessels shall not be transferable from one vessel to another vessel.

(2) Licences issued in respect of fixed fishing gear or beach seines may be transferred provided that the fixed fishing gear or beach seine to which the licence is transferred is of equal dimensions and characteristics and is to be deployed or operated in the same location and manner as the gear or beach seine previously licensed and in place of such gear or beach seine.

(3) Any change of ownership of a licensed local fishing boat, fixed fishing gear or beach seine shall be notified within a period of 30 days by the new owner to the licencing officer for the area in which the vessel, fixed fishing gear or beach seine is licensed to be used, who shall endorse the same on the licence, provided that, in respect of any local fishing vessel, the new owner meets the nationality criteria specified in section 2, and the conditions for refusal to issue a licence specified in section 17 do not exist.

(4) The Minister, if he thinks it necessary, in order to give effect to any scheme for the restriction of effort in respect of any fishery under a fishery management and development plan adopted under section 11, may, by regulation do any or all of the following—

- (a) order that any licence to engage in that fishery may be transferable from one vessel to another vessel with the permission in writing of the appropriate licencing officer, or that the surrender of licences may give rise to such rights to new licences as may be prescribed;
- (b) require that any licence issued in respect of a local fishing vessel engaged in that fishery should not, on a change of ownership of the vessel, be transferable to the new owner without the written permission of the appropriate licencing officer;
- (c) prescribe the conditions under which permission shall be given in respect of transfers of licences.

Fees for
local fishing
licences.

22. (1) The Minister shall prescribe the appropriate licence fees to be paid for licences in respect of local fishing vessels, fixed fishing gear and beach seines.

- (2) Fees may be classified according to the value of species sought, and the length overall, gross tonnage, type of gear or other method related to the harvesting potential of the vessel, gear or beach seine.
- (3) Such fees shall reflect a general policy of this Act of preferential treatment of local vessels over foreign vessels.

PART V—FOREIGN FISHING VESSELS

23. No foreign vessel shall—

- (a) fish, or
- (b) load, unload or trans-ship fish or supplies or process fish within the fisheries waters,

Licence for
foreign
fishing.

except under the authority of a valid licence issued in accordance with this Part.

24. Any foreign fishing vessel entering the fisheries waters or any area of the fisheries waters where it is not authorised to fish shall observe any regulations regarding the stowage of fishing gear.

Foreign
fishing
vessels to
stow gear.

25. (1) The Director may, upon written application therefore and payment of the prescribed fee, issue a licence in respect of any foreign fishing vessel authorising such vessel to do such of the following as may be specified in the licence:

Issue of
foreign
fishing
Licences.

- (a) to fish within the fisheries waters or within any specified area of such waters; or
 - (b) to load, un-load or trans-ship fish or supplies, or process fish within the fisheries waters.
- (2) Application for licences shall be in the form and in accordance with the procedures prescribed by the Ministry.
 - (3) No licence may be issued authorising a foreign fishing vessel to fish within the fisheries waters:
 - (a) without a determination in the applicable fishery management and development plan prepared under section 11 that adequate fishery resources are available for harvesting by foreign fishing vessels; and
 - (b) unless an agreement according fishing rights between the Government and the flag state of the vessel is in force.
 - (4) Each licence issued under this part shall be non-transferable and subject to such conditions as may be

specified in the licence or as may be prescribed, added to, deleted or modified from time to time.

(5) Conditions specified or prescribed under sub-section (4) may include, but shall not be limited to, conditions concerning locations, methods and conduct of fishing operations, amount of catch allowed, conservation measures to be followed, landing, processing and marketing of the catch, marking of the vessel, carrying of transponders and other position-fixing equipment, statistical reporting requirements, keeping of vessel log-books, carrying of and providing of accommodation and facilities for inspectors, and training of Sierra Leonean fishermen and other personnel and protection of local fisheries.

(6) Each licence shall be valid for not more than one Calendar year.

Chartered
foreign
fishing
vessel.

26. (1) Any citizen or qualified company that has entered into a charter agreement for the use of a foreign fishing vessel may submit the charter agreement to the Director to have it designated as an approved charter agreement.

(2) The Director shall approve a charter agreement if he is satisfied that:

(a) the charter agreement vests operational control of the foreign vessel in such citizen or qualified company and meets the guidelines prescribed by the Minister for the approval of charter agreements;

(b) the foreign fishing vessel is otherwise entitled to receive a foreign fishing licence.

(3) Foreign fishing vessels fishing under an approved charter agreement shall be entitled to fish in the fisheries waters on payment of the same fee, and subject to the same regulations and penalties as local industrial fishing vessels.

(4) The Minister shall prescribe guidelines for the approval of charter agreements and conditions for such approval, which shall take into account, *inter alia*:

(a) the effect of the charter on the development of the local industrial fishery;

(b) the effect of the charter on foreign exchange earnings;

(c) the effect of the charter on landing and domestic distribution requirements;

(d) the effect of the charter on the development of export opportunities; and

(e) any other impact on the fisheries or economy of Sierra Leone.

27. The Director may require that, prior to the issuance of a licence in respect of any foreign fishing vessel—

Appoint-
ment of
agents and
posting of
boards.

(a) the applicant shall appoint an agent within Sierra Leone who is authorised to receive and respond to any legal process issued in Sierra Leone with respect to the activities of the vessel;

(b) the applicant or his authorised agent shall post a performance bond which may be applied to the payment of any fines imposed by a court for offences under this Act committed by or in respect of that vessel; and may further require that the maintenance of such agent or performance bond or both during the period of validity of the licence shall be a condition of the licence.

28. No licence issued under this Part shall relieve any foreign fishing vessel, its owner, its master or any member of its crew of any obligation or requirement imposed by law concerning customs, immigration, health, exchange control or other matters.

Require-
ments of
other laws.

29. If any foreign fishing vessel for which a licence has been issued under this part has been used in the commission of an act prohibited by the Act, or any regulations or orders issued hereunder, or any condition of that vessel's licence, the Minister may—

Licence
cancellation,
suspension
or modifica-
tion.

(a) cancel such licence;

(b) suspend such licence for such time as he may deem appropriate; or

(c) impose additional or modified conditions for such licence.

30. (1) The Minister shall prescribe appropriate fees to be paid for foreign fishing licences issued under this Part.

Fees for
foreign
fishing
licences.

(2) In determining fees, the Minister may take into account—

(a) the value of the fish species being sought;

(b) the quantity of the species sought;

(c) the efficiency of the gear;

(d) alternative uses of the fishery resources;

(e) the cost of fishery management and development; and

(f) the cost of fisheries research, administration and enforcement;

with a view towards extracting a suitable economic rent for the fishery resources.

PART VI—CONSERVATION MEASURES

Prohibited
fishing
methods.

31. (1) Any person who—

(a) uses or attempts to use any electric shock device, explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering such fish more easily caught; or

(b) carries or has in his possession or control any electric shock device, explosives, poison or other noxious substances manifesting an intention of using such electric shock device, explosive, poison or other noxious substances for any of the purposes referred to in the preceding paragraph;

shall be guilty of an offence.

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

Mesh
specifica-
tions.

32. Any person who fishes within the fisheries waters and who possesses or has on board any fishing vessel:

(a) any fishing net, the mesh size of which is less than the prescribed minimum mesh size for that type of net; or

(b) any net, fishing gear, or fishing appliance which has been prohibited under any regulation;

shall be guilty of an offence.

Fisheries
impact
assessments.

33. (1) Any person or Government department or other agency planning to conduct any activity other than fishing, which is likely to have a substantial impact on the fishery resources or other aquatic resources of Sierra Leone, shall inform the Director of such plans and consult with him prior to the commencement of the planned activity with a view to the conservation and protection of such resources.

(2) Any reports and recommendations made by the Director regarding the likely impact of the planned activity on the fishery resources or other aquatic resources of Sierra Leone and possible means of preventing or minimizing adverse impacts, shall be taken into account by the person, Government department or other agency in the planning of the activity and in the development of means of preventing or minimizing any adverse impacts.

(3) The Minister shall designate by regulations those types of activities which are likely to have a substantial impact on the fishery resources of Sierra Leone.

34. No live fish may be imported into or exported from Sierra Leone except in accordance with such procedures as may be prescribed.

Import
and
Export of
live fish.

PART VII—ENFORCEMENT AND SURVEILLANCE MEASURES

35. For the purpose of enforcing this Act, any authorized officer may, without a warrant—

Powers
of stopping
boarding
and inspection.

- (a) stop and board any fishing vessel within the fisheries waters, or any local fishing vessel or other fishing vessels registered under the laws of Sierra Leone outside of such waters and make any examination concerning such fishing vessels, its equipment, fishing gear, crew or fish carried on board that vessel;
- (b) stop and inspect any vehicle or vessel transporting fish;
- (c) require to be produced and examine any fishing gear or fishing appliance, whether at sea, or on land;
- (d) require to be produced, and examine and take copies of any licence, log book, certificate or other document required under the Act.

36. (1) Any authorized officer, where he has reason to believe that an offence has been committed against the provisions of this Act may, without a warrant—

Power of
entry,
search,
arrest
and
seizure.

- (a) enter any premises other than premises used exclusively as a dwelling house, in which he has reason to believe that such offence has been committed, or fish taken in contravention of such provisions are being stored, and search such premises;
- (b) take samples of any fish found in any vessel or vehicle inspected under section 35 or any premises searched under the preceding paragraph;
- (c) arrest any person whom he has reason to believe has committed such offence;
- (d) seize any vessel (including its fishing gear, furniture, appurtenance, stores and cargo), vehicle,

fishing gear, nets or other fishing appliances which he has reason to believe have been used in the commission of such offence, or in respect of which the offence has been committed;

(e) seize any fish which he has reason to believe has been caught in the commission of an offence, or is possessed in contravention of this Act;

(f) seize any electric shock device, explosive, poison or other noxious substance which he has reason to believe has been used or is possessed in contravention of section 31;

(g) seize fish not meeting health standards prescribed under this Act.

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

(3) Any person arrested without a warrant under this section shall be taken to a police station forthwith and dealt with in accordance with the provisions of the law.

(4) Any vessel seized under sub-section (1) and the crew thereof shall be taken to the nearest or most convenient port in Sierra Leone.

(5) Where, following the commission of an offence under this Act in the fisheries waters by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of such waters, the powers conferred on authorized officers under this section and under section 35 shall be exercisable beyond the limits of such waters in the circumstance and to the extent recognized by international law.

Sale of perishable goods. 37. Any fish or other article of a perishable nature seized under the provisions of section 36 may, on the direction of the Director be sold, and the proceeds of the sale shall be deposited with the court pending the outcome of any court proceedings under this Act.

Obstruction of authorized officer. 38. (1) Any person who wilfully obstructs any authorized officer in the exercise of the powers conferred upon him by this Act shall be guilty of an offence.

(2) Any person who fails to comply with any lawful enquiry or requirement made by any authorised officer in accordance with the provisions of section 35 shall be guilty of an offence.

39. (1) An authorized officer acting in the exercise of his powers under this Act, when not in uniform, shall, on demand, produce such document of identification or other evidence as may be reasonably sufficient to show that he is an authorized officer for the purpose of this Act.

Conduct by authorized officer.

(2) No authorized officer shall be liable in respect of any act done by him in good faith in the execution of his powers and duties under this Act.

PART VIII—OFFENCES AND LEGAL PROCEEDINGS

40. (1) Where any foreign fishing vessel is used in contravention of the provisions of section 23, the master, owner and charterer, if any, of such vessel are each guilty of an offence and shall be liable—

Penalty for illegal fishing by foreign fishing vessels.

(a) on summary conviction, to a fine of not less than three million leones;

(b) on conviction on indictment, to a fine of not less than six million leones.

(2) Where any foreign vessel is used in contravention of any other section of this Act, any regulation prescribed hereunder or any condition of its licence, the master, owner, and charterer, if any, are each guilty of an offence and shall be liable—

(a) on summary conviction, to a fine of not less than three million leones;

(b) on conviction on indictment, to a fine of not less than six million leones.

(3) Penalties established by this Section shall be paid in a freely convertible foreign currency.

41. (1) Where any local fishing vessel, fixed fishing gear or beach seine is used in contravention of the provisions of section 15, the master, owner, and charterer, if any, of the vessel or the owner and person in charge of the fixed fishing gear or beach seine, as the case may be, are each guilty of an offence and shall be liable—

Penalty for illegal fishing by local fishing vessels, etc.

(a) on summary conviction, to a fine of not less than one hundred and fifty thousand leones;

(b) on conviction on indictment, to a fine of not less than three hundred thousand leones.

(2) Where any local fishing vessel, fixed fishing gear or beach seine is used in contravention of any other provision of this Act, any regulation prescribed under this Act or any condition of its licence, the master, owner and charterer of the fishing vessel, fixed fishing gear or beach seine, as the case may be, shall be guilty of an offence and shall be liable—

(a) on summary conviction, to a fine of not less than one hundred and fifty thousand leones;

(b) on conviction on indictment, to a fine of not less than three hundred thousand leones

Penalty for
other offen-
ces.

42. (1) Any person who commits an offence against the provisions of section 31 shall be liable—

(a) on summary conviction, to a fine of not less than two hundred and fifty thousand leones or to a term of imprisonment not exceeding seven years, or to both such fine and imprisonment;

(b) on conviction on indictment, to a fine of not less than five hundred thousand leones or to a term of imprisonment not exceeding ten years, or to both such fine and imprisonment.

(2) Any person who commits an offence against the provisions of sub-section (1) of section 38 shall be liable—

(a) on summary conviction to a fine of not less than fifty thousand leones or to a term of imprisonment not exceeding three years, or to both such fine and imprisonment;

(b) on conviction on indictment, to a fine of not less than one hundred thousand leones or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment;

(3) Any person who commits an offence against the provisions of sub-section (2) of section 38 shall be liable—

(a) on summary conviction, to a fine of not less than fifty thousand leones or to a term of imprisonment not exceeding three years, or to both such fine and imprisonment;

(b) on conviction on indictment, to a fine of not less than one hundred thousand leones or to a term of imprisonment not exceeding five years.

(4) Any person who commits an offence against the provisions of sections 45, 46 or 47 shall be liable—

(a) on summary conviction, to a fine of not less than one hundred thousand leones or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment;

(b) on conviction on indictment, to a fine of not less than two hundred thousand leones or to a term of imprisonment not exceeding seven years, or to both such fine and imprisonment;

(5) Any person who contravenes any other provision of this Act or any regulations made under this Act shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine of not less than fifty thousand leones or to a term of imprisonment not exceeding three years, or to both such fine and imprisonment;
- (b) on conviction on indictment, to a fine of not less than one hundred thousand leones or to a term of imprisonment not exceeding five years, or to both such fine and imprisonment.

43. Each day of a continuing contravention of any provision of this Act, or of any regulation made hereunder or of any applicable licence shall constitute a separate offence. Continuing offences.

44. Any person who wilfully damages or destroys any fishing vessel, fishing gear, or other fishing appliance belonging to another person shall be guilty of an offence. Wilful damage to fishing vessel.

45. Any person who destroys or abandons any fish, fishing gear, net or other fishing appliances, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid their seizure or the detection of an offence against this Act shall be guilty of an offence. Destruction of incriminating evidence.

46. Any person who, in any declaration to the Minister, Director, or a licencing officer concerning an application for a licence or permit under this Act, or in any document or other evidence produced in support of such declaration— False statement.

- (a) wilfully makes or assists in making, or procures to be made any false statement concerning the title to or ownership or control of, or the interest existing in any vessel, or any part thereof; or

(b) utters, produces or makes use of any declaration, or document containing any such false statement: shall be guilty of an offence.

47. (1) Where an offence against this Act or any regulations or orders made hereunder has been committed by any person belonging to or on board a fishing vessel, the master of such vessel shall also be guilty of such offence. Liability of Master and Officers of companies.

(2) Where any offence against this Act or any regulations or orders made hereunder has been committed by a company or by any member of a partnership, firm or business, every Director, Manager, Secretary or other officer of that Company directly

connected with the activity or any other member of the partnership or other person concerned with the management of such firm or business shall be liable for such offence unless he proves to the satisfaction of the court that—

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

Forfeiture
of vessel,
gear and
catch.

48. The Court, in addition to any other penalty imposed—

- (a) where any person is convicted of an offence against section 15, 23 or 31 (1) (a), shall order that the fishing vessel (including its fishing gear, furniture, appurtenances, stores and cargo) used in the commission of such offence shall be forfeited to the State;
- (b) where any person is convicted of an offence against any other section of this Act, may order that the fishing gear or fishing appliances used in the commission of such offence shall be forfeited to the State;
- (c) shall order that any fish caught in the commission of any offence against the Act or the proceeds of sale of any such fish under section 37 and any explosives, poisons or other noxious substance used in the commission of such offence shall be forfeited to the State.

Disposal of
forfeited
items.

49. Any vessel (including its fishing gear, furniture, appurtenances, stores and cargo), fishing gear, or fishing appliances, explosives, poison or other noxious substance, and any fish ordered to be forfeited under this Part shall be disposed of in such manner as the Director may think fit, provided that if any such item is sold, the proceeds shall be dealt with in accordance with the provisions of section 44 of the Interpretation Act, 1971.

Act No. 8 of
1971.
Presumptions

50. All fish found on board any fishing vessel which has been used in the commission of an offence against this Act shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

Release of
vessels on
bonds.

51. (1) Where any fishing vessel has been seized under section 36 and is being held pending the adjudication of the Court, the Court in its discretion may, upon the posting by the owner, operator or charterer of such fishing vessel of a satisfactory bond or other security in any amount not less than the fair market value of such vessel or the maximum penalty for the offence charged, whichever is greater, order the release of vessel.

(2) The release of any bond or other form of security under this section shall be conditional upon—

(a) a finding by the Court that the vessel has not been used in the commission of an offence under this Act; or

(b) where the Court finds that the vessel has been used in the commission of an offence under this Act—

i) payment in full within 30 days of the judgment of the Court of any fine imposed by the Court and any costs ordered to be paid by the Court; and

(ii) where the Court so orders, delivery to the Court of the vessel, including its fishing gear, furniture, appurtenances, stores and cargo, and of any fish ordered to be forfeited without any impairment of their value, or payment of the monetary value thereof as determined by the Court.

(3) Judgement shall be recoverable on such bond or other security against both the principal and any sureties, in the event that any condition is breached, as determined by such Court.

PART IX—MISCELLANEOUS

52. (1) The Minister, in consultation with the Minister responsible for matters relating to health, may make regulations establishing conditions for the construction and operation of fish processing establishments, providing for the inspection of fish processing establishments, fish and fish products, and establishing quality standards and standard methods of analysis and testing for fish and fish products.

(2) The Minister may prescribe regulations providing for the licensing of fish processing establishments.

53. The Director, with the approval of the Minister, may in writing for the purposes of research or scientific investigation exempt any vessel or person from all or any of the provisions of this Act or any regulations or orders made hereunder, and, in making such exemption, may impose such conditions as he may think fit.

54. The Minister may make regulations generally for the proper management, development and regulation of the fisheries of Sierra Leone, and for the implementation of the purposes and

provisions of this Act, and may in particular without any prejudice to the generality of the foregoing make regulations for all or any of the following—

- (a) to establish the rules of procedure for the Fisheries Advisory Board, and the Scientific and Technical Committee established by the Director;
- (b) to regulate the conduct of fishing operations by foreign fishing vessels in the fisheries waters of Sierra Leone and to establish the conditions to be observed by such vessels;
- (c) to regulate the conduct of fishing operations by local fishing vessels and the operation of fixed fishing gear and beach seines in the fisheries waters of Sierra Leone;
- (d) to prescribe the form of licences and of applications and the required information to be supplied by applicants;
- (e) to prescribe fishery conservation and management measures including seasons, times and areas in which fishing is permitted; gear restrictions, including mesh size requirements; limitations on the amount, size or weight of fish that may be taken and the prohibition of certain methods of fishing;
- (f) to specify the procedures to be followed for foreign capital investment and joint venture proposals in fisheries, and the conditions to be fulfilled by any such investment;
- (g) to regulate the landing of fish, and to prescribe and provide for the management and control of fishing ports and fish landing areas;
- (h) to control the importation and exportation of live fish
- (i) to promote and control aquaculture;
- (j) to provide for the collection of statistics and to require that persons engaged in fishing, fish receiving, processing or marketing, or aquaculture supply such information as may be necessary for the effective management and development of fisheries;
- (k) to require that any fishing vessel be suitably marked for identification;
- (l) to prescribe standards of crew accommodation and safety for local fishing vessels, and conditions of work and social welfare for fishermen;

- (m) to prescribe qualifications for fishing vessel manning requirements;
- (n) to prescribe standards for the accommodation and facilities to be granted to inspectors on board fishing vessels;
- (o) to prescribe reporting requirements for foreign fishing vessels and requirements for the stowage of fishing gear;
- (p) to establish procedures to facilitate the enforcement of this Act;
- (q) to require the registration of all local fishing vessels not required to be registered under the provision of the Registration of Shipping Act, 1965; Act. No. 26
of 1965.
- (r) to establish a body or bodies and procedures to mediate and resolve gear conflicts and other disputes among fishermen;
- (s) to license vessels used for recreational fishing only.
55. The Fisheries Act is hereby repealed: Repeal and
Savings.
Cap. 195
Provided that all regulations, orders, rules and notices made thereunder shall remain in force until they are expressly revoked or replaced by any regulation, order, rule or notice made under this Act.

Passed in Parliament this *11th* day of *January*, in the year of our Lord one thousand nine hundred and eighty-eight.

J. M. LEGG,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. M. LEGG,
Clerk of Parliament.