
Fisheries Act 1989

TONGA

FISHERIES ACT 1989

Arrangement of Sections

PART I PRELIMINARY

1. Short Title
2. Interpretation

PART II FISHERIES CONSERVATION MANAGEMENT AND DEVELOPMENT

3. Fisheries management and development plans
4. Registration of local fisheries vessels
5. Local fishing vessel licences
6. Validity of local fishing vessel licences
7. Local committees
8. Commercial sport fishing
9. Foreign investment in fisheries

PART III FOREIGN FISHING

10. Fisheries access agreement
11. Foreign fishing vessel licences
12. Other agreements and arrangements
13. Stowage of fishing gear
14. Marine scientific research operations

PART IV FISHING LICENCES

15. Conditions of fishing licences
16. Fees and other charges
17. Validity of fishing licences
18. Cancellation and suspension of fishing licences
19. Notices
20. Appeals

PART V GENERAL PROVISIONS

21. Prohibited fishing methods

22. Reserved fishing areas
23. Possession of prohibited fishing gear
24. Fish processing establishment Leasing of land for aquaculture
25. Leasing of land for aquaculture
26. Import and export of live fish
27. Controls over the export of fish and fish products
28. Statistics

PART VI POWERS OF AUTHORISED OFFICERS

29. Designation of authorised officers
30. Powers of authorised officers
31. Duty to comply with instructions and ensure safety of authorised officers
32. Powers beyond fisheries waters
33. Identification of authorised officers
34. Assaulting, etc. authorised officers
35. Personating authorised officers
36. Destruction of evidence, avoidance of seizure

PART VII AUTHORISED OBSERVERS

37. Appointment of observers
38. Duty to comply with instructions and ensure safety of observers.

PART VIII SALE RELEASE AND FORFEITURE OF RETAINED PROPERTY

39. Release of seized, vessel etc.
40. Sale of perishable goods seized
41. Seized vessel, etc., to be held by government
42. Return of seized vessel or bond
43. Operation of order of forfeiture
44. Application of bond, etc.
45. Disposal of vessel, etc. forfeited
46. Sale of seized vessel to pay fine, etc.
47. Liability of government
48. Offence to remove vessel, etc, from custody of government

PART IX JURISDICTION AND EVIDENCE

49. Jurisdiction of the court
50. Onus of proof for licences
51. Certificate evidence
52. Document deemed to be certificate
53. Procedure for certificates

- 54. Presumptions
- 55. Minister's power to compound offences

PART X MISCELLANEOUS

- 56. Immunity of persons acting, etc. in pursuance of powers, etc.
- 57. Liability of master, etc.
- 58. Information to be true
- 59. Regulations
- 60. Delegation of Director and Registrar's powers
- 61. Savings
- 62. Repeals and Amendments

TONGA

No. 18 of 1989.

I assent
TAUFA'AHAU TUPOU IV
18th October, 1989.

AN ACT

TO PROVIDE FOR THE MANAGEMENT AND DEVELOPMENT OF
FISHERIES IN TONGA AND OTHER MATTERS INCIDENTAL THERETO

[26th October, 1989].

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows.

PART I PRELIMINARY

Short Title

1. This Act may be cited as the Fisheries Act 1989.

Interpretation

2. In this Act unless the context otherwise requires—

“access agreement or arrangement” means an agreement or arrangement referred to in Section 10;

“Administrator” means a Pacific Island State, a competent regional fisheries agency, or an official of such Pacific Island State or competent regional fisheries agency designated to administer a regional access agreement under an agreement entered into under Section 12;

“Agreement or arrangement” means any Treaty or other international agreement or arrangement between the Kingdom and another party or parties including states, associations, organisations and other bodies;

“authorised officer” means any fisheries officer, any officer of the police force who is not below the rank of sergeant or who is in charge of a police station, any commissioned officer of the Tonga Defence Services, or any person appointed by the Minister under section 29;

“Court” means the Supreme Court of Tonga;

“Director” means the Director of Agriculture, or such other Director as may have executive responsibility for fisheries matters;

“fish” means any aquatic animal, whether piscine or not includes any mollusc, crustacean, coral (living or dead), sponge, holothurian (beche-de-mer) or other echinoderm, and turtle, and their young and eggs;

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

“fisheries officer” means the Director of Agriculture, the Principal Fisheries Officer, any Fisheries officer, or Assistant Fisheries Officer or any other Government officer or a person belonging to a category of Government officers designated by the Minister by Notice published in the Gazette to be fisheries officers for the purposes of this Act;

“fisheries waters” means the territorial waters of the Kingdom, internal waters, including lagoons, and such other waters over which the Kingdom of Tonga from time to time claims sovereign rights or jurisdiction with respect to the marine living resources by legislative enactment or by Royal Proclamation;

“fishery” means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for the purpose of management, taking into account geographical, scientific, technical, recreational, economic and other relevant characteristics;

“fishery plan” means a plan for the management and development of a fishery prepared under Section 3;

“fishing” means:

(a) searching for, catching, taking or harvesting of fish;

(b) the attempted search for, catching, taking or harvesting of fish;

(c) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;

(d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons;

(e) any operation at sea in support or, or in preparation for, any activity described in this paragraph; or

(f) aircraft or helicopter use relating to any activity described in this paragraph;

“fishing gear” means any equipment, implement, or other thing, including any net, rope, trap, line, float, hook, winch, boat, or helicopter, that may be used in the act of fishing;

“fishing licence” means a foreign fishing vessel licence, a local fishing vessel licence or a commercial sport fishing vessel licence;

“fishing vessel” means any vessel used for fishing or related activities;

“foreign fishing vessel” means any fishing vessel other than a local fishing vessel;

“foreign fishing vessel licence” means a licence issued in respect of a foreign fishing vessel under Section 11;

“licence” means a licence issued under this Act;

“local fishing vessel” means any fishing vessel-

(a) wholly owned by the Government of Tonga or by any Statutory Body established by or under any law of Tonga; or

(b) wholly owned by one or more natural persons who are Tongan subjects or permanent residents of Tonga; or

(c) wholly owned by any company, society or other association of persons incorporated or established under the laws of Tonga, of which at least 51% of the voting shares are owned by Tongan subjects;

“Local fishing vessel licence” means a licence issued in respect of a local fishing vessel under Section 5;

“locally based foreign fishing vessel” means any foreign fishing vessel based in Tonga and landing all of its catch in Tonga;

“master” means the person or persons having control of a fishing vessel and includes a fishing master, fleet commander or pilot having control of such vessel;

“Minister” means the Minister responsible for fisheries;

“Registrar” means the Principal Fisheries Officer or such other person designated by the Minister;

“related activities” in relation to fishing means:

(a) trans-shipping fish to or from any vessel;

(b) storing, processing or transporting fish taken from the fishery waters up to the time it is first landed;

(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;

“commercial sport fishing vessel licence” means a licence issued under section 8;

“subsistence fishing” means fishing for the primary purpose of providing food for domestic consumption but does not include the sale, exposure for sale or barter of the fish caught unless wholly incidental to the primary purpose of subsistence fishing; and

“test fishing operations” means any fishing operations undertaken over a limited period of time with the approval of the Director for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of fishery operations based locally or in the region.

PART II FISHERIES CONSERVATION, MANAGEMENT AND DEVELOPMENT

Fisheries Management and Development Plans

3.- (1) The Director shall progressively prepare and keep under review plans for the conservation, management and development of fisheries in the fisheries waters.

(2) Each fishery plan shall indicate the present state of exploitation of the fishery, the objectives to be achieved in the management and development of the fishery, the management, licensing and development of measures to be applied, the statistical and other information to be gathered on the fishery, and the amount of fishing, if any, to be allowed to foreign fishing vessels.

(3) In the preparation and review of each fishery plan, the Director shall consult with any local government authority and with the local fisherman concerned.

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

Registration of local fishing vessels

4.- (1) The registrar shall maintain or cause to be maintained a register of local fishing vessels.

(2) Subject to subsection (3) no local fishing vessel shall be operated in the fisheries waters unless such vessel has been registered under this section.

(3) Subsection (2) shall not apply to any local fishing vessel used only for sport fishing other than for reward or profit or to a local fishing vessel used only for subsistence fishing or to any non-motorized canoe.

(4) An application for registration of a local fishing vessel shall be made in the prescribed form to the Registrar.

(5) On receipt of an application under this section, the Registrar shall cause the vessel to be inspected.

(6) The Registrar may, where he is satisfied that a local fishing vessel inspected under this section is fit for fishing and meets any prescribed safety and hygiene standards, on payment of the prescribed fee, issue a certificate of registration in respect of that vessel.

(7) Any change of ownership of, or addition or modification to, any vessel registered under this section shall be notified to the Registrar by the new owner or by the owner as the case may be within 30 days of the change of ownership or addition or modification and the Registrar may withdraw the certificate of registration if such addition or modification results in the vessel failing to comply with any of the requirements set out in subsection (6).

(8) In any court proceedings brought under this Act, the entry in respect of a vessel in the register of local fishing vessels maintained by the Registrar under this section shall be prima facie evidence of the ownership of the vessel.

(9) Where a local fishing vessel is operated in contravention of sub-section (2), the master, owner and charterer of the vessel shall each be guilty of an offence and shall each be liable upon conviction to a fine not exceeding \$500.

Local Fishing Vessel Licences

5.- (1) No local fishing vessel the length of which is six (6) metres or more, other than a local fishing vessel used solely for sport fishing or for subsistence fishing, shall be used for fishing or related activities in the fisheries waters without a valid licence issued by the Registrar in respect of that vessel.

(2) An application for a local fishing vessel licence shall be made in the prescribed form to the Registrar.

(3) The Registrar may issue a licence to any local fishing vessel described in sub-section (1)

following submission of an application as required in sub-section (2).

(4) An application for a local fishing vessel licence may be refused on any of the following grounds:

(a) that it is necessary to do so in order to give effect to any licensing programme specified in a fishery plan, or in the case of a fishery not previously exploited, where the Registrar believes that it would be detrimental to the proper management of fisheries to issue licence to exploit that fishery;

(b) that the Registrar has reason to believe, in view of previous convictions for fisheries offences, that the applicant will not comply with the conditions of the licence;

(c) that the vessel in respect of which the application is made does not comply with regulations prescribed under section 59 relating to the safety of the vessel; or

(d) 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 sub-section (1) or any condition of the local fishing licence, the master, owner and charterer of that vessel each is guilty of an offence and shall each be liable upon conviction to a fine not exceeding \$500.00

Validity of local fishing vessel licences

6.- (1) A local fishing vessel licence shall be valid only for the areas, the fishery or fisheries, the method or methods of fishing, and the type and quantity of fishing gear endorsed on the licence.

(2) The Minister may, by regulation, prescribe different classes of local fishing vessel, and the areas of distances from the shore within each class of local fishing vessel may fish or operate.

Local Committee

7.- (1) The Registrar may, under the direction of the Minister, establish local committees to consult and advise him on the numbers of fishing vessels to be allowed to fish in certain areas or fisheries, and on the allocation of licences.

(2) Any local committee established under this section shall be composed of such persons as the Registrar with the approval of the Minister may appoint from among professional fishermen involved in the fishery concerned.

Commercial Sport Fishing

8.- (1) No fishing vessel shall be used for reward or hire for the purpose of sport fishing in the fishery waters without a valid commercial sport fishing vessel licence issued by the Registrar in respect of that vessel.

(2) An application for a commercial sport fishing vessel licence shall be made in the prescribed form to the Registrar.

(3) The Registrar may issue a commercial sport fishing vessel licence following submission of an application as required in sub-section (2).

(4) An application for a commercial sport fishing licence in respect of a local fishing vessel may be refused on any of the following grounds.

- (a) that it is necessary to do so in accordance with the objectives of any relevant fishery plan prepared under section of this Act;
- (b) that the Registrar has reason to believe, in view of previous convictions for fisheries offences, that the applicant will not comply with the conditions of the licence;
- (c) that the vessel in respect of which the application is made does not comply with regulations prescribed under section 59 relating to the safety of the vessel; or
- (d) such other grounds as are specified in this Act or any regulations made under this Act.

(5) Decisions regarding the issuance of commercial sport fishing vessel licences in respect of foreign fishing vessels shall be at the discretion of the Registrar.

(6) Where a fishing vessel is used in contravention of Sub-section (1) or of any condition of a commercial sport fishing vessel licence, the master, owner and charterer of that vessel each commits an offence and shall each be liable upon conviction to a fine not exceeding \$500.

Foreign Investment in Fisheries

9.- (1) Where a person who is not a Tongan subject proposes to invest in fisheries in Tonga, he shall first agree with the Minister on the terms and conditions of such investment and fishing, fish processing and other operations to undertaken.

(2) Where any person invests in fisheries under this section and fails to reach agreement with the Minister on the terms and conditions of such investment and the fishing, fish processing and other operations to be undertaken, the Minister and the Registrar may refuse to issue any fishing or fish processing establishment licence in respect of any vessel or fish processing or fish processing establishment operated by or on behalf of that person or any company through which the investment is made.

PART III FOREIGN FISHING

Fisheries Access Agreements

10.- (1) The Kingdom may enter into bilateral or multilateral access agreements or arrangements providing for the allocation of fishing rights.

(2) The fishing rights allocated under agreements or arrangements referred to in this section shall not exceed the total resources or the amount of fishing allowed to the appropriate category of foreign fishing vessels under the fishery plans.

(3) Any agreement or arrangement referred to in this section shall include a provision establishing the responsibility of the foreign party or parties to take all 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.

Foreign Fishing Vessel Licences

11.- (1) No foreign fishing vessel shall be used for fishing or related activities in the fisheries waters other than for marine scientific research or survey operations authorised under section 14 without:

- (a) a valid foreign fishing vessel licence issued under this section;
- (b) a commercial sport fishing vessel licence issued under section 8; or
- (c) a valid foreign fishing vessel licence issued under a multilateral agreement or arrangement in accordance with its provisions and any related agreement or arrangement described in section 12.

(2) Any application for a foreign fishing vessel licence shall be made, in the prescribed form, to the Minister or, in the case of a multilateral agreement or arrangement, such authority as maybe designated.

(3) Subject to subsection (4), the Minister may, pursuant to a bilateral agreement or arrangement, issue a foreign fishing vessel licence in respect of any foreign fishing vessel authorising that vessel to be used in such areas of the fisheries waters for such fishing or related activities as may be specified in the licence.

(4) Subject to subsection (5), no foreign fishing vessel licence shall be issued in respect of any foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association representing foreign fishing vessel owners or charterers of which the owner or charterer of the vessel is a member, an access agreement or arrangement entered into under section 10, to which the Kingdom 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 foreign fishing vessel is used in contravention of subsection (1), the master, owner and charterer shall each be guilty of an offence and shall each be liable to a fine not exceeding \$500,000.

(7) Where a foreign fishing vessel in respect of which a licence has been issued is used in contravention of any condition of that licence, the master, owner the charterer shall each be guilty of an offence and shall each be liable to a fine not exceeding \$250,000/

Other Agreements and Arrangements

12.- (1) The Kingdom may enter into agreements or arrangements providing for:

- (a) the harmonisation of terms and conditions of access and licensing procedures in respect of foreign fishing vessels;

- (b) the administration of any multilateral access agreement or arrangement, including the designation of an Administrator and the powers and duties of such Administrator, including the issuance of fishing licences under such agreement or arrangement; and
- (c) the taking of joint, reciprocal or harmonised surveillance and enforcement measures in respect of foreign fishing vessels.

(2) For the purpose of giving effect to any agreement or arrangement entered into under the section and to any multilateral access agreement entered into under section 10, the Minister may, with the consent of Cabinet, by Order published in the Gazette:

- (a) exempt any foreign fishing vessel holding a valid foreign fishing licence issued under a multilateral agreement or arrangement from the requirements of such provisions of this Act and any regulations made under this Act as may be inconsistent with the requirements also imposed by such agreement or arrangement;
- (b) prescribe the conditions to be observed in the fisheries waters by operators of foreign fishing vessels holding valid fishing licences issued pursuant to a multilateral agreement or arrangement, provided such conditions are consistent with such agreement or arrangement;
- (c) provide that where any foreign fishing vessel is used in contravention of any of the conditions prescribed under paragraph (b), the master, owner and charterer shall each be guilty of an offence and provide for a penalty or a fine not exceeding \$25,000 for such offence; and
- (d) provide that on conviction of the master, owner or charterer for an offence under the Order, the court may also order the forfeiture to the Government of Tonga of the fishing vessel and any fish, fishing gear, cargo and stores found therein or thereon.

Stowage of Fishing Gear

13.- (1) All fishing gear on board a foreign fishing vessel in the fisheries waters shall be stowed in such a manner that is not readily available for use for fishing.

(2) Subsection (1) shall not apply to a foreign fishing vessel that is in an area of the fisheries waters in which it is authorised to fish under section 14 or under a fishing licence issued under section 11 or section 8.

(3) Where any foreign fishing vessel is used in contravention of subsection (1), the master, owner and charterer of that vessel each commits an offence and each shall be liable on conviction to a fine not exceeding \$10,000 and the fishing gear of the vessel may be forfeited.

Marine Scientific Research Operations

14.-(1) The Minister may, on the submission of a satisfactory research plan, authorise any vessel or person to undertake marine scientific research and survey operations in the fisheries waters and may, in granting such authorisation, exempt such vessel from the requirements of any fisheries management and conservation measures that may be prescribed.

(2) Any authorisation granted by the Minister under subsection (1) shall be subject to the following conditions:-

- (a) such scientific observers or other personnel as the Minister may designate shall be allowed on board the vessel concerned and shall be allowed to participate fully in any research or survey project both on board the vessel and elsewhere;
- (b) copies of all data and information generated by the research or survey operation shall be submitted to the Principal Fisheries Officer at the end of the operations or upon request during the course of the operations;
- (c) the results and conclusions of the research or survey operations shall be submitted to the Principal Fisheries Officer as soon as practicable following to completion of the operation and in any case no later than the time specified for the submission of the results and conclusions in the written authorisation granted by the Ministry;
- (d) no results of the research or survey operations shall be published or otherwise made internationally available without the prior agreement of the Minister.

(3) The Minister may attach such other conditions as he deems fit to any authorisation granted under subsection (1).

(4) Any person who undertakes or assists in any scientific research in the fisheries waters:

- (a) without authorisation under subsection (1); or
- (b) in contravention of any condition or conditions attached to the authorisation under subsection (2) or (3),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(5) Any authorisation or exemption granted under this section shall be in writing and shall state all the terms and conditions of the authorisation or exemption.

PART IV FISHING

Conditions of Fishing Licences

15.- (1) Every fishing licence shall be in the prescribed form and shall be subject to:

- (a) such general conditions as maybe prescribed;
- (b) such general conditions as maybe specified under subsection (2); and
- (c) 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 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 Registrar, or in the case of a foreign fishing vessel licence, the Minister, may attach to any fishing licence such special conditions as he may think fit, including conditions relating to:

- (a) the type and method of fishing or related activities authorised;
- (b) the areas within which such fishing or related activities are authorised; and
- (c) the target species and amount of fish authorised to be taken including any restriction on by-catch.

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

(5) Where the Minister or the Registrar varies or deletes any special condition attached to any fishing licence he shall notify the licence holder of such variation as soon as practicable.

Fees and Other Charges

16. There shall be payable in respect of every fishing licence such fees as may be prescribed and in the case of foreign fishing vessels such other charges as may be provided in any access agreement entered into under section 10, or as the Minister may otherwise determine in relation to a bilateral agreement or arrangement.

Validity of Fishing Licences

17.- (1) Subject to the provisions of this section, a licence issued under this Act shall, unless earlier cancelled or suspended in accordance with section 18, be valid for a period of twelve months.

(2) The Registrar, or in the case of a locally based foreign fishing vessel, the Minister, may issue licences in respect of local fishing vessels or locally based foreign fishing vessels which shall be valid for such period not exceeding 5 years as may be specified in the licence.

(3) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the licence shall automatically terminate.

(4) The term of validity of a foreign fishing vessel licence shall not extend beyond the term of validity of the applicable access agreement, and in the case of a foreign fishing vessel licence issued pursuant to a multilateral access agreement or arrangement, may extend beyond one year if so provided in such agreement or arrangement.

Cancellation and suspension of Fishing Licences

18.- (1) The Registrar or, in the case of a foreign fishing vessel licence issued by the Minister, the Minister may cancel or suspend a fishing licence on any of the grounds set out in subsection (2).

(2) A fishing licence may be cancelled or suspended where the Minister or the Registrar, as the case may be, issued such licence and is satisfied that:

- (a) it is necessary to do so in order to give effect to any licensing programme specified in the fisheries plan; 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 arrangement, except where such authority is vested in an administrator or other person or body.

(3) A foreign fishing vessel licence may be cancelled or suspended in accordance with the terms of any applicable multilateral agreement or arrangement entered into under section 10 or section 12.

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

(5) Where a fishing licence has been suspended or cancelled on the grounds specified in subsection (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 reimbursed to the licensee on his request.

Notices

19.- (1) Any notification given under section 15(5) or 18(4) 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.

(3) A notification referred to in subsection (1) shall be presumed to have been received no later than the time it would have been received in the ordinary course of events.

Appeals

20. Any person aggrieved by-

(a) the refusal of the Registrar to issue or renew a licence in respect of a local fishing vessel;
or

(b) the cancellation or suspension of a licence issued in respect of a local fishing vessel or a foreign fishing vessel,

may within 30 days of the receipt of notification of that decision appeal against it to the Minister.

PART V GENERAL PROVISIONS

Prohibited Fishing Methods

21.- (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 any way rendering fish more easily caught; or

(b) carried 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,

commits an offence and shall be liable on conviction to a fine not exceeding \$1,000 or imprisonment for a period not exceeding 2 years or to both such fine and imprisonment.

(2) Any explosive, poison 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 91) (a), knowing or having reasonable cause to believe them to have been so taken, commits an offence and shall be liable on conviction to a fine not exceeding \$1,000.

(4) For the purposes of the section, a certificate as to the cause and manner of death or injury of any fish signed by the Registrar or by any person authorised by him in writing shall be accepted as prima facie evidence of the facts averred in the certificate in a court without proof of the signature of the person appearing to have signed the certificate or of his official character.

(5) In any proceeding under this act the provision of sections 52 and 53 shall apply to a certificate issued under subsection (4) save that the words section 21 (4) shall be inserted in place of the words section 51.

Reserved Fishing Areas

22.- (1) The Minister may by Order published in the Gazette declare any area of the fisheries waters to be a reserved fishing area for subsistence fishing operations and may in the Order specify the types or classes of vessel that may be allowed to fish in such area and the methods of fishing that may be used in such area.

(2) Any person who fishes in any reserved fishing areas in contravention of any Order made under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

Possession of Prohibited Fishing Gear

23. Any person who within any area of the Fisheries waters, uses for fishing or has on board any fishing vessel in circumstances which indicate an intention to use for fishing in the fisheries waters:

(a) any net the mesh size of which does not conform to the prescribed minimum mesh size for that type of net in that area;

- (b) any fishing gear which does not conform to any standards prescribed for that type of fishing gear; or
- (c) any fishing gear which is prohibited by this Act or any regulations made under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

Fish Processing Establishments

24.- (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.

(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 commits an offence and shall be liable on conviction, to a fine not exceeding \$100,000.

(3) In this Section "fish processing establishment" means 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 Tonga.

Leasing of land for aquaculture

25.- (1) The Government may lease areas, land, lagoons, the foreshore and sea-bed for the purposes of aquaculture.

(2) Any lease made under this section shall be in conformity with any regulations made under section 59 relating to the leasing of land for aquaculture.

(3) The provisions of the Land Act shall apply to the leasing of Crown lands including areas of lagoons, the foreshore and sea-bed for the purposes of aquaculture under this section.

Import and export of live fish

26.- (1) No person shall import or export or attempt to import or export, any live fish into or from Tonga without the permission in writing of the Director.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

Control over the export of fish and fish products

27. The Minister may, with the consent of Cabinet, make regulations prohibiting or restricting the export from Tonga of any prescribed species type or size of fish or other aquatic organism, where, in his opinion, such action is required -

- (a) to protect the supply of fish to the domestic markets of Tonga; or
- (b) in the interests of the proper management of a fishery.

Statistics

28.- (1) Any person engaged in fishing, fish processing, fish marketing or the export of fish or fish products shall provide to the Registrar such information relating to such fishing, processing, marketing or export activities and in such form as may be prescribed.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

PART VI POWERS OF AUTHORISED OFFICERS

Designation of Authorised Officer

29. The Minister may, by Notice published in the Gazette, designate any Government officer or any category of Government officers to be authorised officers for the purposes of this Act.

Powers of Authorised Officers

30.- (1) Any authorised officer may, without a warrant:

- (a) stop, board and search any foreign fishing vessel in the fisheries waters and any local fishing vessel in or outside the fisheries waters;
- (b) within the fisheries limits stop, enter and search any vehicle or aircraft which he reasonably suspects of transporting fish or fish products is being or has been used or involved in the commission of an offence against this act or its regulations;
- (c) require the master, fishing master or any crew member or other person aboard to inform him of the name, call sign and country of registration of the vessel and the name of the master, owner, charterer, fishing master or other crew member;
- (d) examine the master, fishing master or any crew member or other person aboard about the cargo, contents of holds and storage spaces, voyage and activities of the vessel;
- (e) make such examination and inquiry as may appear necessary to him concerning any premises, vessel, vehicle or aircraft in relation to which any of the power is conferred by this subsection have been or may be exercised and take samples of any fish or fish product found therein;
- (f) require to be produced examine and take copies of any logbook, record or other document required under this Act or concerning the operation of any vessel;
- (g) make an entry dated and signed by him in any vessel's log;
- (h) require to be produced and examine any fish, fishing net, fishing gear or explosive or other noxious thing whether on sea or on land;
- (i) give directions to the master and any crew member of any vessel stopped, boarded or searched as may be necessary or reasonable expedient for any purpose specified in this Act to provide for the compliance of the vessel or master or any crew member with the conditions of any licence; and
- (j) at all reasonable times enter and inspect any fish processing establishment for which a licence is held.

(2) Any authorised 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 reasonable grounds to believe that the offence has been committed or where he has reasonable grounds to believe that fish illegally taken or explosives for use contrary to section 21 are being stored;

(b) take samples of any fish found in any vessel, vehicle, aircraft or premises searched under this section;

(c) seize:

(i) any vessel (together with its fishing gear, equipment, stores and cargo), vehicle, aircraft or hovercraft which he has reasonable grounds to believe has been or is being used in the commission of an offence, or which he knows or has reasonable grounds to believe has been forfeited in accordance with any provision of this Act;

(ii) any fish or fish products which he has reasonable grounds to believe have been caught in the commission of an offence or are possessed in contravention of this Act;

(iii) any explosive, poison or other noxious substance which he has reasonable grounds to believe has been used or is being possessed or controlled in contravention of this Act;

(iv) any logs, charts or other documents required to be maintained by this Act or under the terms of any licence or which he has reasonable grounds to believe show or tend to show the commission of an offence against this Act;

(v) any thing which he has reasonable grounds to believe might be used as an exhibit in any proceedings under this Act; and

(d) arrest any person whom he has reasonable grounds to believe has committed an offence against this Act.

(3) (a) Where any vessel is seized under this Act the master and crew thereof shall take it to such port as the authorised officer shall designate, being 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 section 39.

(b) The master shall be responsible for the safety of the crew, vessel, himself and any other person on board in bringing the vessel to the designated port.

(c) If the master fails or refuses to take the seized vessel to the designated port then an authorised officer may do so.

(d) If the vessel is brought to port in the circumstances described in paragraph(c), no claim whatever may be made against any authorised officer the Government of Tonga in respect of any death, injury, loss or damage occurring while the vessel is being so brought.

(4) (a) Where any vehicle or aircraft is seized under this Act the driver or pilot thereof shall take it to such place as the authorised officer shall designate being the nearest or most convenient place for the holding of such vehicle or aircraft and the vehicle or aircraft 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 39.

(b) The driver of the vehicle or pilot of the aircraft shall be responsible for the safety of the vehicle or aircraft and any person thereon or in when bringing the vehicle or aircraft to the designated place.

(c) If the driver or pilot refuses to take the seized vehicle or aircraft to the designated place then an authorised officer may do so.

(d) If a vehicle or aircraft is brought to a place in the circumstances described in paragraph (c), no claim whatever may be made against any authorised officer or the Government of Tonga in respect of any death, injury, loss or damage occurring while the vehicle or aircraft is being so brought.

(5) (a) An authorised officer may remove any part or parts of any vessel, vehicle or aircraft held or detained in the custody of the Government of Tonga for the purpose of immobilising that vessel, vehicle or aircraft.

(b) Any part or parts removed under paragraph (a) shall be kept safely and returned to the vessel, vehicle or aircraft immediately upon any lawful release thereof from custody.

(c) Any person who possesses or arranges to obtain any part or parts removed under paragraph (a) or who possesses or arranges to obtain or makes any replacement of substitute part or parts for those removed under paragraph (a) or who fits or attempts to fit any part or parts or any replacement or substitute part or parts to a vessel, vehicle or aircraft held or detained in the custody of the Government of Tonga commits an offence and is liable to a fine not exceeding \$100,000 or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

Duty to Comply with Instructions and Ensure Safety of Authorised Officer

31.- (1) The master and each member of the crew of any fishing vessel, the driver of any vehicle and the pilot and crew of any aircraft shall immediately comply with every instruction or direction given by an authorised officer and facilitate safe boarding, entry and inspection of the vessel, vehicle or aircraft and any fishing gear, equipment, records, fish and fish products.

(2) The master and each member of the crew of a vessel, driver of a vehicle and pilot and crew of an aircraft shall take all measures to ensure the safety of an authorised officer in the performance of his duties.

(3) The holder of a fish processing establishment licence and all persons at the establishment shall immediately comply with every instruction or direction given by an authorised officer and facilitate his safe entry and inspection of the establishment and at all times take all measures to ensure the safety of any authorised officer in the performance of his duties.

Powers Beyond Fisheries Waters

32. 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 fisheries waters in circumstances and to the extent recognised by international law, the powers conferred on authorised officers under this section shall be exercisable beyond the limits of the fisheries waters.

Identification of Authorised Officer

33. An authorised officer in exercising any of the powers conferred on him by this Act shall on demand produce identification to show he is an authorised officer under this Act.

Assaulting etc. Authorised Officer

34. Any person who assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer in the performance of his duties or fails to comply with any lawful order, requirement or request of an authorised officer or otherwise contravenes sections 30 and 31 shall commit an offence and be liable to imprisonment not exceeding one year for a fine not exceeding \$500 or to both such imprisonment and fine.

Personating Authorised Officer

35. Any person who impersonates or falsely represents himself to be an authorised officer commits an offence and shall be liable to a fine not exceeding \$500.

Destruction of Evidence, Advance of Seizure

36. Any person who being on board any vessel being pursued, about to be boarded or notified it will be boarded by any authorised officer throws overboard or destroys any fish, fish products, fishing gear, explosive, poison, noxious substance, chart, log, document or other thing with intent to avoid the seizure thereof or the detection of any offence against this Act shall be guilty of an offence and liable to a fine not exceeding \$50,000.

PART VII AUTHORISED OBSERVERS

Appointment of Observers

37.- (1) The Minister may appoint such persons as he considers fit to be authorised observers.

(2) For the purposes of a multilateral agreement or arrangement entered into in accordance with section 10, an observer appointed in accordance with such agreement or arrangement shall be deemed to be an observer appointed in accordance with this Act and this section shall apply to such observer in the performance of his duties as if he were so appointed.

Duty to Comply with Instructions and Ensure Safety of Observers

38.- (1) The master and each member of the crew of any fishing vessel shall immediately comply with every lawful instruction or direction given by an observer and facilitate safe boarding and inspection of the vessel, its fishing gear, equipment, records, fish and fish products.

(2) The master and each member of the crew of any fishing vessel shall take all measure to ensure that safety of an observer in the performance of his or her duties.

(3) Any person who assaults obstructs, resists, delays, refuses boarding to, intimidates or fails to take all measures to ensure the safety of or otherwise interferes with an observer in the performance of his or her duty or fails to comply with any lawful instructions or direction given by an observer commits an offence and shall be liable to imprisonment not exceeding one year or a fine not exceeding \$500 or both such imprisonment and fine.

PART VII SALE RELEASE AND FORFEITURE OF RETAINED PROPERTY

Release of Seized Vessel etc.

39.- (1) Subject to subsection (3), the court may, and in the case of a foreign fishing vessel, vehicle or aircraft shall, on application order the release of any fishing vessel (together with its fishing gear, equipment, stores and cargo), vehicle, aircraft or other item or items seized under this Act on receipt of a bond or other form of security acceptable to the court from the owner or other person claiming such property for the aggregate value of the property to be released, the total maximum fine or fines provided for the offences charged or likely to be charged and the costs the prosecution would be likely to recover if a convention were entered.

(2) Where any vessel, vehicle, aircraft or other item seized is released upon the lodging of a bond or other form of security under subsection(1)or(3), the Court shall in the order state separately the sums which are attributable to the property to be released, the total fine or fines and the likely costs and in the case of a release under subsection (3) the full value of the property released.

(3) The Court may, in such special circumstances as it considers fit, taking into account the gravity of the offence alleged, release any fishing vessel, vehicle, aircraft or other item seized for an amount less than the prescribed by subsection (1).

(4) Nothing in subsection (1) or (3) shall require a Court to release any vessel, which, aircraft or other thing if it might be required as an exhibit in court proceedings, or is reasonably required for any further investigations under this Act.

Sale of Perishable Goods seized

40.- (1) Any fish or other article of a perishable nature seized under this Act may, at the direction of the Registrar, 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 Registrar 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.

Seized Vessel, etc. to be held by Government

41. Any vessel, vehicle aircraft or other item seized under this Act or any bond or other security or proceeds of any sale in respect thereof shall be held by the Government of Tonga pending the outcome of any legal proceeding under this Act or until it is decided not to lay an information or charge and any monies due in respect of a compounding under section 55 have

been paid.

Orders of Forfeiture and Return of Seized Property, Bond, etc.

42.-(1) Where any person is convicted of an offence against this act, the court, in addition to any other penalty:

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

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

(2) Where any vessel, vehicle, aircraft or other item seized under this Act or any bond or other security or proceeds of sale in respect thereof is not forfeited or applied in the discharge of any fine, order for costs or compounding under section 55 it shall be returned to the person who appears to be entitled thereto.

Operation of Order of Forfeiture

43.- (1) Where any vessel, aircraft or other item has been released upon the lodging of a bond or security, order for forfeiture shall, unless the court for special reasons fixes a smaller sum, operate as an order for forfeiture of the bond or security to the full value of the item forfeited as stated under section 39(2) or where a smaller sum is ordered in accordance with section 39(3), that smaller sum, or failing such determination the value of the item forfeited.

(2) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security under section 39(3), the Court may order any convicted person and the owner of the vessel, vehicle, aircraft or other item concerned, to pay the difference between the bond or amount lodged in respect of the forfeited property and the full value of the forfeited property as stated under section 39(2).

Application of Bond, etc.

44. Any bond, security or proceeds of sale held in respect of any vessel, vehicle or aircraft or other items shall be applied as follows and in this order:

(a) the expenses of any sale under this part;

(b) the discharge of any forfeiture;

(c) the payment of all fines for offences under this Act or monies due in respect of a compounding under section 55 arising out of the use of or in connection with the vessel, vehicle, aircraft or other item;

(d) the discharge of all orders for costs in legal proceedings arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and

(e) returned to the person entitled under section 42(2).

Disposal of Vessel etc. Forfeited

45. Any vessel, vehicle, aircraft or other item ordered to be forfeited under this Act shall be forfeited to the Crown and may, at the expiry of the time limited for appeal and if no appeal is lodged, be disposed of in such manner as the director, or in the case of a foreign fishing vessel or aircraft, the minister may direct.

Sale of Seized Vessel, etc. to pay fines etc.

46. Any vessel, vehicle, aircraft or other item seized under this Act but not forfeited in any legal proceeding may be held by the Government of Tonga until all fines, orders for costs and monies due in respect of a compounding under section 55 have been paid, and failing payment within the time allowed be sold and the balance of the proceeds returned to the person who appears to be entitled thereto after deduction of all fines, orders for costs, monies due in respect of a compounding under section 55 and costs of sale.

Liability of Government

47. The Government of Tonga shall not be liable to any person for any loss, damage to or deterioration in the condition of any vessel, vehicle, aircraft or other item while in the custody of the Government under this Act.

Offence to Remove Vessel, etc. from custody of Government

48. Any person who removes any vessel, vehicle, aircraft or other item held in the custody of the Government of Tonga under this Act commits an offence whether or not he know the vessel, vehicle, aircraft or other item was held in the custody of the Government of Tonga and is liable to a fine not exceeding \$100,000 or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

PART IX JURISDICTION AND EVIDENCE

Jurisdiction of the Courts

49.- (1) Any act or omission in contravention or alleged contravention of any of the provisions of this Act which takes place or is alleged to have taken place within the fishery waters by any person, or outside the fisheries waters by any citizen of, or person ordinarily resident in, Tonga or by any person on board any local fishing vessel, shall be dealt with and judicial proceedings taken as if such act or omission had taken place in Tonga within the local limits of the jurisdiction of the court in which proceedings are taken.

(2) Any contravention or alleged contravention of section 39(3) which takes place or is alleged to have taken place on board a vessel on the high seas and holding a valid fishing licence may be dealt with and judicial proceedings taken as if such contravention or alleged contravention had taken place in Tonga. whether or not the observer is a Tongan, subject.

(3) Where any regulation or licence condition requires specifically or incidentally the reporting of any fact while a vessel is or is alleged to be on the high seas, proceedings may be taken in respect of any failure to report as if it had occurred with the fisheries waters.

Onus of Proof for Licences

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

Certificate Evidence

51.-(1) The Minister or any person authorised in writing by him may give a certificate stating:

- (a) a specified vessel was or was not on a specified date or dates a local fishing vessel;
- (b) a specified vessel or person was or was not on a specified date or dates the holder of any or any specified licence or certificate of registration;
- (c) an appended document is a true copy of the licence or certificate of registration of a specified vessel or person and that specified conditions were those of a licence or certificate of registration issued in respect of a specified vessel or person;
- (d) a particular location or area of water was on a specified date or dates within the fisheries waters or within a closed, limited, restricted or in any other way controlled area of the fisheries waters or area of the fisheries waters subject to specified conditions;
- (e) an appended chart shows the boundaries on a specified date or dates of the fisheries waters, territorial seas, closed or limited areas or other areas delineated for any specified purpose;
- (f) a particular item or piece of equipment is fishing gear;
- (g) an appended document is a true copy of an access agreement or arrangement;
- (h) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel; or
- (i) whether a specified vessel is entered upon and has good standing on the Regional Register of Foreign Fishing Vessels maintained by the South Pacific Forum Fisheries Agency.

(2) Any certificate made under this section shall be headed "Certificate Made Under Section 51 Fisheries Act".

Document Deemed to be Certificate

52.- (1) Unless the contrary is proved, a document purporting to be a certificate under section 51 shall be deemed to be such a certificate, and to have been duly given.

Procedure, etc. for Certificates

53.- (1) Where a certificate given under section 51 is served upon a defendant seven or more days before its production in court in any proceedings under this act then the certificate shall, unless the contrary is proved, be evidence of all the facts averred in it.

(2) Where a certificate is served on a defendant fourteen or more days before its production in court in any proceedings under this act and no objection is notified in writing within seven days of receipt of the certificate then the certificate shall unless the court considers that the defendant is unduly prejudiced by any failure to object to conclusive proof of all the facts averred in it.

(3) No certificate served under subsection (2) may be used as conclusive proof of the facts averred therein unless it is served with a copy of sections 51, 52 and 53 of this Act.

(4) Where any objection is notified under subsection (2) the certificate shall, unless the contrary is proved, be evidence of the facts averred in it.

(5) Any omission from or mistake made in any certificate issued under section 51 shall not render it invalid unless the court considers such omission or mistake is material to any issue in the proceedings concerned or the defendant is unduly prejudiced thereby.

(6) Where in any proceedings a certificate made under section 51 is produced to the Court, the prosecution shall not be obliged to call the maker of the certificate and the court shall, where material, rely on the facts therein unless the contrary is proved.

Presumptions

54.- (1) For the purposes of any proceedings under this Act, the act or omission of any member of the crew of a fishing vessel while aboard that vessel or on a boat or aircraft from the vessel shall be deemed to be also that of the master, owner and charterer.

(2) Any entry, writing or other mark in or on any log, chart or other document required to be maintained under this Act or used to record the activities of a fishing vessel shall be deemed to be that of the master, owner and charter of the vessel.

(3) Where any information is given in respect of a fishing vessel under this Act or an access agreement or arrangement or in relation to any fishing activity of a fishing vessel, it shall be presumed, unless the contrary is proved, to be given by the master, owner and charterer of the vessel concerned whether it is given by post, telex, telephone, facsimile, radio transmission or other method of communication.

(4) All fish found on board any vessel or in or on any vehicle or aircraft used or involved in the commission of an offence under this Act resulting in or conviction shall be presumed, unless the contrary is proved, to have been caught unlawfully and be liable to forfeiture.

(5) Where, in any legal proceedings instituted under this Act, the place in which a vessel was located at a particular time is in issue, the place stated in a certified copy of the relevant entry in the logbook or other official record of an enforcement vessel as being the place in which the vessel was at that particular time shall be presumed, unless the contrary is proved, to be the place in which that vessel was at that time.

(6) Regulations may be prescribed setting out the circumstances in which the readings, printouts, displays, displays and pictures of or produced by designated devices may be admissible in evidence and the evidence and the evidential value and procedure for the production thereof.

Minister's power to Compound Offences

55.- (1) Subject to subsection (3) the Minister may, where he is satisfied that any person has committed an offence against this Act involving a foreign fishing vessel, 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.

(2) On compounding an offence under this section the Minister may order the release of any article seized under 30 or the proceeds of sale of such article under section 40 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) Where the person who has committed the offence is no longer within Tonga, the Minister may send written notice of the intention to compound the offence to the legal address of the person outside Tonga, or to the address of his legal agent in Tonga, where such an agent has been appointed.

(4) 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, or, where notification has been given under subsection (3), if the person concerned notifies the Minister in writing that he does not wish the offence to be compounded, submits to the jurisdiction of the courts of Tonga and, where so required by the Court, files a bond or other form of security in accordance with section 39.

(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.

PART X MISCELLANEOUS

Immunity of Persons Acting in Pursuance of Powers, etc.

56. Any person who does any act in pursuance or intended pursuance of any power or function conferred on him or her by or under this Act or omits to do any act required of him or her by or under this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction or mistake of law or fact or any other grounds unless such act or omission was committed in bad faith.

Liability of Master.

57.- (1) Where an offence against this Act has been committed by any person on board or employed on a fishing vessel, the master, owner and charterer of such vessel shall also be guilty of the offence.

Information to be True, etc.

58.- (1) Any information required to be recorded, or to be notified, communicated or reported pursuant to a requirement of this Act or any access agreement or arrangement entered into under this Act shall be true, complete and correct.

(2) Any change in circumstances which has the effect of rendering any such information referred to in subsection (1) false, incomplete or misleading shall be notified immediately to the appropriate person, authority or body.

(3) Any person who contravenes subsection (1) or (2) commits an offence is liable on conviction to a fine not exceeding \$5000.

Registrations

59.- (1) The Minister may make regulations not inconsistent with this Act for the implementation of its purposes and provisions.

(2) Without limiting the generality of Subsection (1) the Minister may in such regulations provide for all or any of the following:

- (a) the licensing, regulation and management of any particular fishery;
- (b) extending the licensing requirements of Section 5 to all local fishing vessels;
- (c) prescribing fisheries management and conservation measures including, prescribed mesh sizes, gear standards, minimum and a maximum species sizes, closed seasons, closed areas, prohibited methods of fishing gear and schemes for limiting entry into all or any specified fisheries;
- (d) prohibiting fishing for whales and other marine mammals;
- (e) providing for the registration and licensing of fishing gear and other fishing appliances;
- (f) regulating sport fishing in the fisheries waters and requiring the holding of licences for persons engaging in sport fishing;
- (g) regulating or prohibiting the use of underwater breathing apparatus;
- (h) regulating or prohibiting the use of spear guns or other similar devices;
- (i) regulating the landing, marking and distribution of fish;
- (j) regulating the transiting of foreign fishing vessels through the fisheries waters, including the manner in which fishing gear is to be stowed;
- (k) making provision for rewards to be paid to any persons providing information on the operations of foreign fishing vessels leading to a conviction for or compounding of an 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 10 or 12;
- (n) requiring that no licence shall be issued in respect of a foreign fishing vessel unless that foreign fishing vessel is listed in good standing on the Regional Register of Foreign Fishing vessels maintained by the South Pacific Forum Fisheries Agency;
- (o) providing for the licensing and control of fish aggregating devices and for rights to fish aggregated by such devices;
- (p) regulating:
 - (i) the taking of coral shells,
 - (ii) the setting of fishing fences;
 - (iii) the taking of aquarium fish;
 - (iv) aquaculture operations;
- (q) providing for the control or prohibition of the import and export of fish or fish products;
- (r) prescribing standards and other measures for the safety of local fishing vessels and fishermen;
- (s) regulating or prohibiting the entry into land leased for the purposes of aquaculture or into any waters superjacent to such land;
- (t) prescribing the terms and conditions of leases for aquaculture;

- (u) providing that the contravention or failure to comply with any regulation made under this section shall be an offence and providing for a penalty or a fine not exceeding \$10,000 for such offence;
- (v) prescribing any other matter which is required or authorized to be prescribed.

Delegation of Director and Registrar's Powers

60. The Director and the Registrar may, in writing, delegate the powers conferred on them under this Act, with the exception of the powers conferred by section 3 and 4.

Savings

61. Any agreement or arrangement entered into or authorization given under section 3 of the Fisheries Protection Act, 1973, shall, except in so far as it is inconsistent with this Act, continue to have effect as though entered into or, given under this Act.

Repeals and Amendments

62. The following Acts are hereby repealed -

- (a) The Fisheries Regulation Act, 1923;
- (b) The Fisheries Protection Act, 1973;
- (c) The whaling Industry Act, 1935

Passed in the Legislative Assembly this 26th day of September, 1989.
