
THE FISHERIES AND MARINE RESOURCES ACT 2007

Act No. 27 of 2007

I assent

SIR ANEROOD JUGNAUTH

26 December 2007

President of the Republic

ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY

1. Short title
2. Interpretation

PART II – MANAGEMENT OF FISHERIES AND ADMINISTRATION

3. Consultative Committees
4. Marine Protected Areas
5. Marine Protected Area Fund
6. Record of fishing boats and fishing vessels
7. Confidentiality

PART III – FISH FARMING

8. Fish farming
9. Fishing in fish farms
10. Disease outbreak

PART IV – CONTROL OF FISHING ACTIVITIES

11. Registration of fishermen
12. Prohibited fishing methods and gears
13. Prohibition of underwater fishing
14. Closed periods
15. Fish aggregating device

16. Protection of fish
17. Landing, possession and sale of fish
18. Fishing with the aid of artificial light
19. Fishing in pass
20. Fish landing stations
21. Sale and origin of fish

PART V – IMPORT, EXPORT AND MANUFACTURING

22. Import of fish and fish products
23. Import of live fish
24. Illegal import of fish
25. Export of fish and fish products
26. Import, sale and manufacture of gear
27. Import and construction of fishing boat and fishing vessel

PART VI – LICENSING

Sub-Part A – Gears

28. Gear licences
29. Application for and issue of licences
30. Limitation on number of licences
31. Gear licence not transferable
32. Duties of gear licensees
33. Disposal of licensed gears

Sub-Part B – Fishing boats and fishing vessels

34. Foreign fishing boat or foreign fishing vessel licence
35. Licence and international agreement
36. Licence issued to a Mauritian fishing boat or fishing vessel
37. Conditions of licences
38. Validity

PART VII – OBLIGATIONS RELATING TO FISHING BOATS AND FISHING VESSELS

Sub-Part A – General provisions

39. Transshipment
40. Marking
41. Reporting

Sub-Part B – Mauritian fishing boats and Mauritian fishing vessels

42. Registration of Mauritian fishing boats
43. Mauritian fishing boats
44. Application for registration
45. Cancellation of registration
46. Transfer and modification of fishing boat
47. Landing
48. Mooring
49. Abandoned fishing boats
50. Departure of licensed Mauritian fishing boats and licensed Mauritian fishing vessels
51. Arrival of licensed Mauritian fishing boats or licensed Mauritian fishing vessels

Sub-Part C – Foreign fishing boats or foreign fishing vessels

52. Stowage
53. Entry into and exit from the maritime zones
54. Entry into a Mauritian port

PART VIII – ENFORCEMENT

55. Warrant to enter and search
56. Liability of owners of gears used in commission of offences
57. Implementation of international fishery conservation and management measures
58. Power of search and seizure
59. Power to arrest and detain
60. Seizure of fish
61. Duties of fishery control officers
62. Pursuit beyond the maritime zones
63. Custody of seized items
64. Custody and disposal of found items
65. Security for release of seized items
66. Disposal of fish
67. Application of the Public Officers Protection Act
68. Suspension and cancellation

PART IX – OFFENCES AND PENALTIES

69. Protection of the aquatic ecosystem
70. Offences and penalties
71. Forfeiture
72. Giving false information and tampering with evidence

PART X – MISCELLANEOUS

- 73. Jurisdiction
- 74. Regulations
- 75. Compounding
- 76. Rewards
- 77. Photographic evidence
- 78. Position fixing instrument
- 79. Repeal
- 80. Transitional provisions
- 81. Consequential amendment
- 82. Commencement

An Act**To amend and consolidate the law relating to the management, conservation, protection of fisheries and marine resources and protection of the marine ecosystems**

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY**1. Short title**

This Act may be cited as the Fisheries and Marine Resources Act 2007.

2. Interpretation

In this Act –

“agent” means a person in Mauritius who –

- (a) is appointed by an owner or operator of a vessel operating under a licence issued under this Act; and
- (b) is authorised to receive, or is capable of responding to, any legal process issued in Mauritius against his principal;

“bait gear” means a gear used for catching fish to be used as bait, referred to in section 29;

“barachois” means a pond –

- (a) within or adjacent to the sea; and
- (b) enclosed by a weir or dam through which the sea flows and reflows;

“basket trap” means a basket trap referred to in section 28;

“boat” means any canoe, raft, floating platform or watercraft less than 24 metres overall length;

“canard net” means a net –

- (a) which is used in conjunction with a large net for catching mullets;
- (b) which does not exceed 100 metres in length and 5 metres in width;
- (c) which is made of several layers of nets fitted with poles to maintain the whole net afloat on the surface of the water; and
- (d) the meshes of any of the layers of which measure not less than 9 centimetres when stretched diagonally;

“drift net” means any net –

- (a) with any one side of which exceeds 250 metres; and
- (b) is fitted with floats or weights which make it hang vertically at the surface level of the sea, in mid-water or from the floor of the sea;

“explosive” has the meaning assigned to it by the Explosives Act;

“fish” means any aquatic organism, other than a bird, and includes any shell or coral;

“fish aggregating device” means –

- (a) a device placed in water to attract fish; or
- (b) a naturally floating object which attracts fish and to which a device has been placed to facilitate its location;

“fish farm” means a pond, tank, barachois, fish hatchery or any structure where fish farming or fish culture is carried out;

“fish farm operator” means the person holding an authorisation under section 8 to operate a fish farm;

“fish landing station” means an area so prescribed under section 20 (1);

“fish product” means –

- (a) any fish or part of any fish; or
- (b) any fresh, prepared, processed or frozen fish products;

“fishery control officer” means a Fisheries Officer and includes –

- (a) a police officer;
- (b) an officer of the Customs Department of the Mauritius Revenue Authority;
- (c) a forest officer;

- (d) an authorised officer under the Food Act;
- (e) a veterinary officer; or
- (f) an authorised officer of the Ministry responsible for commerce;

“fishing” –

- (a) means –
 - (i) catching;
 - (ii) collecting;
 - (iii) killing; or
 - (iv) destroying;any fish by any method; and
- (b) includes –
 - (i) searching for fish for the purpose of catching, collecting, killing or destroying the fish;
 - (ii) placing, searching for or retrieving, a fish aggregating device;

“fishing boat” means a boat used for fishing and fishing related activities but excludes a boat used for fishing as sport, water sport or for any other recreational purpose;

“fishing vessel” means a vessel used for, or equipped to be used for, fishing or related activity, other than a fishing boat;

“foreign fishing boat” means a fishing boat, other than a Mauritian fishing boat;

“foreign fishing vessel” means a fishing vessel, other than a Mauritian fishing vessel;

“gear” means a net, a line, a hook, a lure, or a device, used or intended to be used for fishing;

“gear licence” means a licence referred to in section 28;

“gear licensee” means the holder of a licence in respect of a gear;

“gill net” means a net which –

- (a) is set for catching fish;
- (b) does not exceed 250 metres in length and 2.5 metres in width; and
- (c) is made up of square meshes measuring not less than 11 centimetres when stretched diagonally;

“identification mark” means a mark assigned to a gear, or fishing boat by the Permanent Secretary under section 29(5) or 40(1);

“landing net” means a net in the form of a bag having –

- (a) meshes of any size; and
- (b) a hoop measuring not more than 50 centimetres in diameter and fitted with a handle;

“large net” means a net which –

- (a) does not exceed 500 metres in length and 2.5 metres in width; and
- (b) is made up of square meshes measuring not less than 9 centimetres when stretched diagonally;

“light stick” means a device, which is attached to a submerged fishing gear, which contains chemical substances capable of producing light through a chemical reaction inducing chemoluminescence, not requiring electrical power source;

“maritime zones” has the meaning assigned to them by section 2 of the Maritime Zones Act 2005;

“master” means the person in charge of a boat or vessel;

“Mauritian fishing boat” means a boat which is registered under section 44;

“Mauritian fishing vessel” means a vessel which is –

- (a) registered in Mauritius under the Merchant Shipping Act; and
- (b) is wholly owned by –
 - (i) the State of Mauritius;
 - (ii) a statutory corporation in Mauritius;
 - (iii) one or more persons who are citizens of Mauritius;
or
 - (iv) a body corporate, a company or other association incorporated or established under the laws of Mauritius and having a place of business in Mauritius;

“Minister” means the Minister responsible for the subject of fisheries and marine resources;

“net” means a net, mounted or unmounted, which is used, or intended to be used for fishing;

“offshore terminal” means any place or structure prescribed for the purposes of landing or transshipping fish or fish products;

“ornamental fish” means live fish kept in an aquarium, tank, pond or container for decorative or display purposes and not intended for release;

“owner” in relation to a vessel –

(a) means a person who owns the vessel; and

(b) includes –

(i) a charterer, whether bareboat, time or voyage; and

(ii) a person who acts in the capacity of a charterer;

(iii) a party upon whom control over the destination, function or operation of the vessel is conferred under a management agreement or a similar agreement;

“pass” means a passage through the reefs and includes the entrance to any harbour, bay or creek;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of fisheries and marine resources;

“place of business” means the place where meetings of the directors of the body corporate owning a fishing boat or a fishing vessel are regularly held;

“pocket net” means a net –

- (a) not exceeding 15 metres in length and 12 metres in width;
- (b) with 2 arms, each of which shall not exceed 10 metres in length and 2.5 metres in width;
- (c) which is made up of square meshes measuring not less than 9 centimetres when stretched diagonally; and
- (d) which is used in conjunction with a large net;

“poisonous substance” means any substance likely to kill, stun or injure any fish or damage or pollute aquatic ecosystems;

“position fixing instrument” means any device, instrument or equipment placed on board a fishing boat or fishing vessel, which transmits automatically, either independently or in conjunction with other instruments, information relating to the position of the boat or vessel.

“related activity” in relation to fishing, means the operation of a boat, vessel or mother vessel in conjunction with fishing operations and includes –

- (a) storing, transshipping, processing or transporting of fish or any fish product taken in the maritime zones, or in the course of high seas fishing up to the time it is first landed;
- (b) refuelling or supplying fishing boats or fishing vessels; or
- (c) performing any other activity in support of fishing operations;

“sell” includes –

- (a) hawk;
- (b) expose for sale;
- (c) keep for sale;
- (d) offer for sale; and
- (e) convey or consign for the purpose of sale;

“shrimp net” means a net in the form of a bag not exceeding 2 square metres which –

- (a) is used for catching shrimps; and
- (b) is fitted with a hoop measuring not more than 50 centimetres diametrically or diagonally; or
- (c) is mounted on 2 handles and fitted with weights;

“speargun” means a device fitted with a trigger and a spear;

“structure” includes any jetty, slipway, ramp, dam, pier, building, gate, cairn, marina, pontoon or platform;

“territorial sea” has the same meaning as in the Maritime Zones Act 2005;

“toxic fish” means any fish prescribed as being toxic fish;

“undersized fish” in relation to fishing, means a fish the size of which is less than the size prescribed for that species of fish;

“underwater fishing” means fishing by diving or with the use of a snorkel, flippers, goggles or similar equipment;

“vessel” means any vessel, ship, carrier vessel or any other craft, other than a boat;

“wetland” –

- (a) means an area of marsh whether –
 - (i) natural or artificial; or
 - (ii) permanently or temporarily with water which is static or flowing, brackish, or salty; and
- (b) includes areas of marine water.

PART II – MANAGEMENT OF FISHERIES AND ADMINISTRATION

3. Consultative Committees

(1) The Minister may set up such Consultative Committees as he thinks fit –

- (a) for discussions and advice on matters of general policy relating to fisheries, marine resources, aquaculture and marine conservation;
- (b) for inquiring into matters relating to fisheries and marine resources.

(2) A Consultative Committee shall consist of –

- (a) the Minister, who shall be the Chairperson;
- (b) such other persons as the Minister may appoint.

(3) Where the Minister is unable to attend a meeting of the Consultative Committee, he shall designate a member to chair the meeting.

(4) The Chairperson of a Consultative Committee may co-opt at a meeting any person who, in his opinion, may assist the Committee on the subject under deliberation at that meeting.

(5) No member of the Consultative Committee, other than the representative of a Ministry, shall be deemed to hold a public office by virtue only of his appointment as member.

(6) A member of the Consultative Committee shall be appointed by the Minister on such terms and conditions as he may determine.

4. Marine Protected Areas

(1) The Minister may, by regulations, declare –

- (a) any area of the maritime zones including the seabed underlying such zones;
- (b) any land associated with the maritime zones; or
- (c) any wetland,

to be a Marine Protected Area.

(2) The Minister may, by regulations, made under subsection (1), designate a Marine Protected Area to be –

- (a) a Fishing Reserve;
- (b) a Marine Park; or
- (c) a Marine Reserve.

5. Marine Protected Area Fund

(1) There is established for the purposes of this Act a Marine Protected Area Fund.

(2) The Permanent Secretary shall be responsible for the management and administration of the Fund.

(3) The Fund shall consist of –

- (a) such sums of money as may be appropriated by the National Assembly for any of the purposes of this Act;
- (b) any grant or donation made to the Fund;
- (c) any sum that may lawfully accrue to it;
- (d) any money that is payable under this Act including all fees, rent and other charges arising from the authorised use of a Fishing Reserve, a Marine Park or a Marine Reserve.

(4) The assets of the Fund shall be applied towards the payment of expenses which may be incurred in the management of a Marine Protected Area.

(5) Article 910 of the Code Civil Mauricien shall not apply to the Fund.

6. Record of fishing boats and fishing vessels

(1) The Permanent Secretary shall keep a record of fishing boats less than 12 metres in which shall be entered –

- (a) the identification mark assigned to the boat;
- (b) the name and address of the owner; and
- (c) such other particulars as he thinks fit.

(2) The Permanent Secretary shall keep a record of fishing boats of 12 metres or more in length overall and fishing vessels licensed under sections 34 and 36.

- (3) The record shall contain so far as is applicable –
- (a) the name of the fishing boat or fishing vessel;
 - (b) the port and country of registration;
 - (c) any identification mark assigned to the boat or vessel;
 - (d) previous registration details;
 - (e) communication details;
 - (f) the Lloyds/IMO registration number;
 - (g) the international radio call sign;
 - (h) the length overall, draft and beam;
 - (i) the engine power;
 - (j) the net and gross registered tonnage;
 - (k) the type of refrigeration system;
 - (l) the material of build;
 - (m) the boat or vessel type and fishing method and gears;
 - (n) the hold capacities in cubic metres;
 - (o) the date of build;
 - (p) the number of crew, including fishermen and persons commonly known as “frigoboy”;;
 - (q) the name and address of the agent in Mauritius;
 - (r) the name, address and nationality of any natural or legal person with beneficial ownership of the fishing boat or fishing vessel;

- (s) particulars of any previous offences committed by the use of the fishing boat or fishing vessel; and
- (t) any other information as the Permanent Secretary may determine.

7. Confidentiality

A fishery control officer or any officer having access by virtue of his functions to any information under this Act shall not use or disclose such information except for the purposes of –

- (a) this Act;
- (b) fulfilling the obligations of Mauritius under any international agreement or convention.

PART III – FISH FARMING

8. Fish farming

(1) No person shall operate a fish farm unless he has a written authorisation from the Permanent Secretary.

- (2) A person who wishes to operate a fish farm shall –
- (a) make an application to the Permanent Secretary in a form approved by the Permanent Secretary; and
 - (b) cause a notice of his application to be published in the *Gazette* and in two daily newspapers for 2 consecutive days.

(3) Any person who wishes to object to an application made under subsection (2) (a) may, within 21 days of the latest publication of the notice under subsection (2) (b), lodge a written objection to the application with the Permanent Secretary.

(4) The Permanent Secretary may require the applicant to –

- (a) furnish such other documents and such other clearances from the Department of Environment and other authorities as he shall specify;
- (b) show cause why any objection made under subsection (3) should not be upheld.

(5) The Permanent Secretary may, after consideration of the application, any objection lodged under subsection (3) and any documents, clearances or representations made by the authorities specified in subsection (4) –

- (a) refuse the application; or
- (b) grant the application subject to such terms and conditions as he may impose, and issue a written authorisation to the applicant, upon payment of such fee as may be prescribed.

(6) Where the Permanent Secretary refuses to grant the application, he shall specify the reason for doing so and inform the applicant of his decision and the reasons thereof within 14 days of the date of his decision.

(7) Subsection 2 (b) shall not apply to any application for an authorisation for farming fish in a pond, tank, barachois or fish hatchery.

(8) The Permanent Secretary shall keep a register of all written authorisations granted by him under this section with such particulars as he may deem appropriate.

(9) Any person, holding a written authorisation to carry out fish farming, who sells or transfers his fish farm in the name of another person shall, within 7 days, of the sale or transfer, notify the Permanent Secretary and surrender to him his written authorisation.

9. Fishing in fish farms

(1) No person shall fish in any fish farm unless authorised to do so in writing by the fish farm operator.

(2) No person shall use any gear for fishing in a fish farm, unless he is authorised to do so in writing by the Permanent Secretary.

(3) Notwithstanding section 28(1), the Permanent Secretary may authorise the use of such gear as is appropriate for fishing in the fish farm in respect of which application is made, subject to such terms and conditions as he may think fit to impose.

10. Disease outbreak

(1) Any fish farm operator shall, within 24 hours of the outbreak of any disease in his fish farm, inform the Permanent Secretary of such outbreak.

(2) Where the Permanent Secretary is given information under subsection (1) and is satisfied that a fish farm has been affected by a disease, he may direct the fish farm operator to –

- (a) take such measures he considers appropriate to control the disease and prevent its spreading further;

- (b) remove and destroy any fish affected by the disease;
- (c) disinfect the fish farm; and
- (d) take such other measures as may be required.

PART IV – CONTROL OF FISHING ACTIVITIES

11. Registration of fishermen

(1) Any person who wishes to be registered as a fisherman shall make an application to the Permanent Secretary for such registration.

(2) Any person referred to in subsection (1) shall make his application to the Permanent Secretary in such form as he may approve and pay such processing fee as may be prescribed.

(3) Where an application is made under subsection (2), the Permanent Secretary may register the fisherman subject to such terms and conditions as he may determine.

(4) Where the Permanent Secretary registers a fisherman, he shall issue –

- (a) to an artisanal fisherman, a Fisherman Registration Card;
- (b) to a bank fisherman, a Fisherman Continuous Record Book;
- (c) to a trainee bank fisherman, a Trainee Fisherman Continuous Record Book; or
- (d) to any other fisherman, such other document as he deems fit.

12. Prohibited fishing methods and gears

- (1) No person shall –
 - (a) fish with a gunny bag, canvas or cloth, creeper, leaf or herb;
 - (b) fish with lime or any poisonous substance;
 - (c) fish with any explosive;
 - (d) fish with any drift net;
 - (e) use or keep on board a boat or vessel any device that may be used to transform a gear;
 - (f) have in his possession or control any article mentioned in paragraph (a), (b), (c), (d) or (e) for the purposes of fishing;
 - (g) land, sell or have in his possession any fish which he knows or has reason to believe has been caught by –
 - (i) one of the gears or methods set out in paragraphs (a), (b), (c), (d) or (e); or
 - (ii) any other illegal gear or methods;
 - (h) fish with, or have in his possession, a speargun, except with the written approval of the Permanent Secretary.

(2) Where an article specified in paragraph (1) (a), (b), (c), (d), (e) or (h) is found on board a boat or vessel, it shall be presumed to be intended for use for fishing.

13. Prohibition of underwater fishing

(1) Subject to subsection (2), no person shall carry out underwater fishing without the written authorisation of the Permanent Secretary.

(2) The Permanent Secretary may, under such terms and conditions he may determine, authorise underwater fishing –

- (a) for scientific purposes;
- (b) for the purpose of catching ornamental fish; or
- (c) for such other purpose as he may approve;

14. Closed periods

(1) No person shall fish with, or have in his possession at sea, any river, lake or dam –

- (a) a large net, a pocket net or a gill net from 1 October in a year to the last day of February of the following year;
- (b) a canard net from –
 - (i) 1 May to 31 July in a year;
 - (ii) 1 October in a year to the last day of February of the following year.

(2) Subject to subsection (1), no person shall fish with, or have in his possession at sea, any river, lake or dam –

- (a) a large net or canard net between 1800 hours and 0600 hours;
- (b) a gill net between 0600 hours and 1800 hours.

(3) Subject to subsection (4), no person shall –

- (a) fish oysters; or
- (b) have in his possession fresh oysters,

from the 1 October in a year to the last day of March of the following year.

- (4) Subsection (3) does not apply to oysters which are –
- (a) caught in a fish farm; or
 - (b) imported for sale.

(5) Notwithstanding subsection (1), the Minister may, in any year, authorise by regulations, fishing at sea, any river, lake or dam with a large net, a pocket net, a gill net or a canard net for a period of not more than 10 days starting from the 1 October in that year where weather conditions prevented respectively, for 5 days consecutively, the operation of –

- (a) a large net, a pocket net or a gill net during the period 1 March to 30 September in that year;
- (b) a canard net during the periods 1 March to 30 April and 1 August to 30 September in that year.

15. Fish aggregating device

(1) No person shall place a fish aggregating device in the maritime zones unless he is authorized in writing by the Permanent Secretary.

(2) Any person holding a licence under section 34 or 36 which allows him to place a fish aggregating device is exempted from having to apply for an authority under subsection (1).

16. Protection of fish

(1) Subject to subsection (2), no person shall fish or cause any person to fish –

- (a) any undersized fish;
- (b) any crab or lobster in the berried state; or
- (c) any marine turtle, marine turtle egg or any marine mammal.

(2) The Permanent Secretary may authorise, in writing, and subject to such terms and conditions as he may impose, the catching of –

- (a) any fish specified in subsection (1) or marine turtle eggs for scientific, reproductive, or any other purpose beneficial to the community;
- (b) undersized fish by the operator of a fish farm for stocking the fish farm;
- (c) undersized fish specified in the Schedule for use as bait.

17. Landing, possession and sale of fish

(1) Subject to subsection (3), no person shall land or cause any person to land, sell or have in his possession in Mauritius or in the maritime zones –

- (a) any toxic fish;
- (b) any fish or fish product, which is unfit for human consumption;
- (c) any marine turtle whether dead or alive, marine turtle eggs, stuffed marine turtle;
- (d) any marine mammal;
- (e) any undersized fish; or
- (f) any crab or lobster in the berried state.

(2) No person shall land, sell or have in his possession any fish which he knows or has reasonable cause to believe has been taken in contravention of any international fishery conservation and management measure to which Mauritius is a party.

(3) The Permanent Secretary may issue an authorisation, in writing, and subject to such terms and conditions as he may impose, for the capture, landing or possession of any fish specified in subsection (1)(a) to (f) for scientific or conservation purposes.

(4) Where a fishery control officer is satisfied that subsection (1)(c), (d), (e) or (f) or (2) has been contravened, he shall order any fish the subject matter of the contravention to be seized

(5) Where a fishery control officer is satisfied that any fish referred to in subsection (1)(a) or (b) is being landed or sold, or offered for sale or supplied by any person, or is in possession of any person, he shall order the fish to be seized and destroyed.

(6) The owner of any fish seized under subsection (4) or destroyed under subsection (5) shall not be entitled to any compensation.

18. Fishing with the aid of artificial light

(1) Subject to subsection (3), no person shall fish with the aid of any artificial light, except with the written authorisation of the Permanent Secretary.

(2) (a) The Permanent Secretary shall not issue an authorisation except –

- (i) to the operator of a fish farm for the purpose of fishing in the fish farm;
- (ii) for the purpose of catching undersized crabs to stock a fish farm;
- (iii) for the purpose of catching shrimps with a shrimp net;

(iv) for the purpose of catching fish to be used as bait; or

(v) for light sticks to be used when attached to a submerged fishing gear.

(b) Any authorisation issued by the Permanent Secretary under this section shall be subject to such terms and conditions as he may impose.

(3) A person may fish with artificial light in a fish farm with the permission of the operator of the fish farm who holds an authorisation under subsection (2)(a).

19. Fishing in pass

No person shall –

(a) make use of a net in a pass; or

(b) place in a pass any object likely to cause obstruction to navigation.

20. Fish landing stations

(1) The Minister may prescribe an area near the shore as a fish landing station.

(2) No fisherman shall land fish at a place other than a fish landing station.

(3) Any person who lands fish at a fish landing station shall –

(a) where requested by a fishery control officer, cause the fish to be weighed, and provide such particulars on the catch as may be required;

- (b) keep and store the fish in such manner and at such place as a fishery control officer may direct; and
- (c) not expose the fish to rain, sun, flies or other unhygienic conditions.

21. Sale and origin of fish

- (1) (a) Subject to subsection (2), no person shall sell or have in his possession for sale any fish unless he holds a fishmonger's licence.
 - (b) A fishmonger's licence shall be issued by the Permanent Secretary subject to such terms and conditions as he may impose.
- (2) Subsection (1) shall not apply to a fisherman who sells fish at a fish landing station.
- (3) No person shall purchase fish from a fisherman at any place for the purpose of sale other than at a fish landing station.
- (4) No fishmonger who purchases fish from a fisherman shall refuse to sell fish at a fish landing station.
- (5) A person found in possession of fish shall, on being required to do so by a fishery control officer, furnish the fishery control officer with particulars of the origin or source of the fish.

PART V – IMPORT, EXPORT AND MANUFACTURING

22. Import of fish and fish products

- (1) (a) No person shall import into Mauritius any fish, or fish product, except with a permit issued by the Permanent Secretary.

- (b) A permit issued under paragraph (a) shall be subject to such terms and conditions as the Permanent Secretary may think fit to impose.
- (2)
 - (a) No person shall import into Mauritius any marine turtle egg or marine mammal, whether dead or alive or stuffed, except with the written approval of the Permanent Secretary.
 - (b) An approval under paragraph (a) shall be subject to such terms and conditions as the Permanent Secretary may think fit to impose.

(3) Where a fishery control officer is satisfied that any fish or fish product which has been imported is unsuitable for human consumption, he may, after the Permanent Secretary of the Ministry responsible for the subject of health would have obtained an order under section 5(2)(b)(ii) of the Food Act, cause the fish or the fish product to be forfeited and destroyed.

(4) The importer of any fish or fish product destroyed under subsection (3) shall not be entitled to any compensation.

23. Import of live fish

- (1)
 - (a) No person shall import into Mauritius any live fish intended for release, aquaculture or for ornamental purposes, except under a permit issued by the Permanent Secretary.
 - (b) A permit issued under paragraph (a) shall be subject to such terms and conditions as the Permanent Secretary may think fit to impose.
- (2) No live fish imported under subsection (1) shall be released except with the written approval of the Permanent Secretary.

(3) The Permanent Secretary shall not give his approval under subsection (2) unless –

- (a) the fish has been kept under observation and control for such period and on such terms and conditions as he thinks fit; and
- (b) an assessment has been carried out on the environmental impact of such release by the importer, and the Permanent Secretary is satisfied, upon a report submitted to him by the importer, that the release of the live fish shall not be detrimental to the environment.

(4) Where the Permanent Secretary is satisfied that any live fish which has been introduced into Mauritius is unsuitable for release or for ornamental purposes, he shall order the fish to be forfeited and destroyed.

(5) The importer of any live fish destroyed under subsection (4) shall not be entitled to any compensation.

24. Illegal import of fish

No person shall, within Mauritius or the maritime zones –

- (a) on his own account, or as partner, agent or employee of another person, land, import, export, transport, sell, receive, acquire or purchase; or
- (b) cause or permit a person acting on his behalf to land, import, export, transport, sell, receive, acquire or purchase, any fish taken, possessed, transported or sold contrary to the law of one or more States with which Mauritius has entered into an agreement on a reciprocal or multilateral basis for the management of fisheries.

25. Export of fish and fish products

(1) No person shall export from Mauritius any fish or fish product except with a permit issued by the Permanent Secretary.

(2) A permit issued under subsection (1) may be granted subject to such terms and conditions as may be determined by the Permanent Secretary.

26. Import, sale and manufacture of gear

(1) No person shall manufacture, import, sell or supply any gear, other than a basket trap, a fish spear, a hook, a line, a rod, a reel or a lure, except under a licence issued by the Permanent Secretary.

(2) A licensee under subsection (1) shall –

- (a) keep a register in which he shall forthwith enter particulars of every sale or purchase of a gear made by him including –
 - (i) the name and address of every seller or purchaser of a gear;
 - (ii) the description, measurement and number of gears sold or purchased by him;
 - (iii) the number and date of issue of the licence held by the seller or purchaser of gears;
- (b) not later than 14 days after any sale or purchase of a gear, submit to the Permanent Secretary, in writing, the particulars specified in paragraph (a).

27. Import and construction of fishing boat and fishing vessel

(1) No person shall import into Mauritius, or construct, any fishing boat or fishing vessel, except with the written approval of the Permanent Secretary.

(2) An approval under subsection (1) shall be subject to such terms and conditions as the Permanent Secretary may determine.

PART VI – LICENSING**Sub-Part A – Gears****28. Gear licences**

(1) Subject to section 9(3) and subsections (2) and (3), no person shall, without a gear licence issued by the Permanent Secretary, use or have in his possession, a gear specified in section 29 (1).

(2) No application for a licence to use a gill net, a large net and a shrimp net concurrently shall be made, nor shall such a licence be granted.

(3) Notwithstanding subsection (1), no gear licence shall be required in respect of a basket trap which has meshes of a size which allows a cylinder measuring not less than 4 centimetres in diameter to pass through and which is operated by a registered fisherman.

(4) Notwithstanding subsection (1), no gear licence shall be required for a gear to be used by a licence holder under Sub-part B of this Part.

29. Application for and issue of licences

- (1) A person who wishes to operate –
- (a) a bait gear;
 - (b) a canard net;

- (c) a gill net;
- (d) a large net;
- (e) a basket trap;
- (f) a shrimp net; or
- (g) a pocket net,

shall make a written application for a gear licence to the Permanent Secretary.

(2) Upon receipt of an application under subsection (1), the Permanent Secretary may request the applicant to furnish such particulars as he may think fit.

(3) Where the Permanent Secretary is satisfied that a gear licence may be issued, he may issue the licence on payment of the prescribed fee.

(4) A licence issued under subsection (3) shall –

- (a) be in the prescribed form; and
- (b) be subject to such terms and conditions as the Permanent Secretary thinks fit.

(5) The Permanent Secretary may cause to be affixed a seal or other identification mark on such gear as may be specified by him.

30. Limitation on number of licences

(1) Subject to subsection (2), the Permanent Secretary shall not at any time issue licences for more than –

- (a) 10 large nets, 10 pocket nets, 10 canard nets, 5 gill nets and 100 shrimp nets for fishing in the lagoon of the island of Mauritius;

- (b) 8 large nets, 8 pocket nets, 8 canard nets and 15 shrimp nets for fishing in the lagoon of the island of Rodrigues;
- (c) 2 large nets for fishing in the lagoon of the island of Agalega.

(2) Where a gear licensee at the commencement of this Act applies, on the expiry of his licence, for renewal, the Permanent Secretary shall grant the renewal notwithstanding that the limits specified in subsection (1) may be exceeded.

31. Gear licence not transferable

(1) A gear licence issued under this Sub-Part shall not be transferable.

(2) Where a gear licensee –

- (a) dies; or
- (b) in the case of a body corporate, the body corporate is wound up,

the gear licence shall lapse, and any fishing gear in respect of which the licence was issued shall forthwith be surrendered to the Permanent Secretary for safe keeping until disposal.

32. Duties of gear licensees

A gear licensee shall –

- (a) keep or store any gear referred in section 29(1)(b), (c), (d) and (g) in such place as may be approved by the Permanent Secretary;
- (b) on demand, produce to a fishery control officer any licence issued to him under this Act;

- (c) on demand, produce any gear referred to in paragraph (a) or indicate its location to any fishery control officer;
- (d) report to the Permanent Secretary any damage to the seal or identification mark affixed under section 29(5) to any gear referred to in paragraph (a);
- (e) surrender any gear referred to in paragraph (a) to the Permanent Secretary upon the expiry or revocation of his licence, or cessation of business.

33. Disposal of licensed gears

(1) No licensee shall dispose of any licensed gear referred to in section 29(1)(b), (c), (d) and (g) without the written approval of the Permanent Secretary.

(2) No gear licensee shall replace any gear referred to in subsection (1) unless –

- (a) the gear has become unserviceable;
- (b) the gear is surrendered to the Permanent Secretary; and
- (c) the Permanent Secretary approves its replacement in writing.

(3) The Permanent Secretary may cause to be destroyed any gear which is surrendered to him under subsection (2)(b).

Sub-Part B – Fishing boats and fishing vessels**34. Foreign fishing boat or foreign fishing vessel licence**

(1) No person shall use a foreign fishing boat or foreign fishing vessel for fishing or any related activity within the maritime zones, unless he is the holder of a foreign fishing boat or foreign fishing vessel licence.

- (2) (a) An application for a licence under this section shall be made to the Minister in such form as may be approved by the Permanent Secretary.
- (b) The form shall include the particulars referred to in section 6(2) as the Permanent Secretary deems appropriate.
- (3) (a) The Minister may, on such terms and conditions as he thinks fit and subject to the approval of the Prime Minister, issue a licence in a prescribed form, for the use of a foreign fishing boat or foreign fishing vessel for the purpose of fishing or any related activity within the maritime zones.
- (b) A licence under paragraph (a) shall be issued on payment of such fee as may have been provided for in an international agreement referred to in section 35.
- (c) In the absence of an agreement under section 35, a licence shall be issued on payment of the prescribed fee.

(4) The Minister shall refuse to issue a licence under this section where –

- (a) the foreign fishing boat or foreign fishing vessel in respect of which the licence is sought has a history of non-compliance with international fishery conservation and management measures, except where the ownership of the fishing boat or fishing vessel has subsequently changed and the new owner provides sufficient evidence that the previous owner or master has no legal, beneficial or financial interest in, or control of, the fishing boat or fishing vessel;
- (b) the foreign fishing boat or the foreign fishing vessel does not comply with the requirements of a regional fisheries management organisation to which Mauritius is a party, or has not complied with the measures adopted by that organisation.

35. Licence and international agreement

(1) Subject to subsection (2), a foreign fishing boat licence or foreign fishing vessel licence shall not be issued under section 34, unless there is an agreement –

- (a) between the Government of Mauritius and the State in which the fishing boat or fishing vessel is registered;
- (b) between the Government of Mauritius and an economic integrated organization to which a member State of the organisation in which

the fishing boat or fishing vessel is registered has delegated the power to negotiate fishing agreements; or

- (c) between the Government of Mauritius and a fishing association of which the owner or charterer of the fishing boat or fishing vessel is a member.

(2) In the absence of an agreement referred to in subsection (1), the Minister may issue a licence under this section if the applicant provides such financial or other guarantees as he may determine.

36. Licence issued to a Mauritian fishing boat or fishing vessel

(1) Subject to subsection (2), no person shall use a Mauritian fishing boat or Mauritian fishing vessel for fishing or any related activity –

- (a) within the maritime zones;
- (b) in any fishery on the high seas,

except under a licence issued under this section.

(2) The owner of any Mauritian fishing boat or Mauritian fishing vessel shall, prior to starting to fish in the fishing zone of a foreign State, notify in writing the Permanent Secretary of that fact.

(3) The Minister may exempt any fishing boat less than 12 metres in length from the requirements of subsection (1)(a), subject to such terms and conditions as he may determine.

- (4)
 - (a) An application for a licence under this section shall be made to the Minister in such form as may be approved by the Permanent Secretary.
 - (b) The form shall include such particulars referred to in section 6(2) as the Permanent Secretary deems appropriate.
- (5)
 - (a) The Minister may, on such terms and conditions as he thinks fit, issue a licence in the prescribed form, for the use of a Mauritian fishing boat or a Mauritian fishing vessel for the purpose of fishing or any related activity within the maritime zones or on the high seas.
 - (b) A licence issued under paragraph (a) shall be issued on payment of the prescribed fee.
- (6) The Minister shall not issue a licence under this section unless he is satisfied that –
 - (a) the vessel is a Mauritian fishing vessel registered under the Merchant Shipping Act;
 - (b) the fishing boat is a fishing boat registered under section 44;
 - (c) the applicant has satisfied such requirements as the Minister may determine;
 - (d) the fishing boat or fishing vessel in respect of which the licence is sought has no history of non-compliance with international fishery conservation and management measures except where the ownership of the fishing boat or vessel has subsequently changed and the new

owner provides sufficient evidence that the previous owner or master has no legal, beneficial or financial interest in, or control of, the fishing boat or the fishing vessel.

37. Conditions of licences

The terms and conditions imposed under sections 34(3) and 36(5) may include –

- (a) the type and method of fishing or any related activity authorised;
- (b) the areas within which such fishing or any related activity is authorised;
- (c) the species and amount of fish authorised to be taken, including any restriction on by-catch;
- (d) closed periods;
- (e) reporting obligations;
- (f) the carrying on board of communications, position fixing or other equipment.

38. Validity

(1) Subject to section 68, a licence issued under this Sub-Part shall be valid for such period as may be specified in the licence, but shall not exceed one year.

(2) The Minister may, on renewal of a licence or during its currency –

- (a) attach fresh conditions to the licence; or
- (b) vary its conditions.

(3) Where a Mauritian fishing boat ceases to be registered under section 45, or a Mauritian fishing vessel ceases to be registered under the Merchant Shipping Act, any licence issued under this part shall lapse.

(4) A licence issued under this Sub-Part shall not be transferable.

PART VII – OBLIGATIONS RELATING TO FISHING BOATS AND FISHING VESSELS

Sub-Part A – General provisions

39. Transhipment

(1) Subject to subsection (2), the owner or master of any fishing boat or fishing vessel shall not tranship any fish, or fish products, in the maritime zones, except in a port or other place approved by the Permanent Secretary, subject to such terms and conditions as he may deem fit to impose.

(2) The Permanent Secretary may, where he is satisfied that such transhipment is necessary or is conducted in accordance with appropriate management measures agreed upon by Mauritius, authorise in writing the owner or master of a fishing boat or fishing vessel to tranship fish, or fish products, in the maritime zones, subject to such terms and conditions as he may deem fit to impose.

40. Marking

(1) The Permanent Secretary shall assign an identification mark to every Mauritian fishing boat or Mauritian fishing vessel registered under section 42 to which no international radio call sign has been allocated.

(2) No owner or master of any fishing boat or fishing vessel shall allow his boat or vessel to be in the maritime zones or in a port, unless the boat or vessel is marked in accordance with the Food and Agriculture Organisation of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels for the time being in force, or such marking as is specified or imposed by the flag state of the fishing boat or vessel.

(3) No person shall falsify, delete or conceal the marking of any fishing boat or fishing vessel made in accordance with subsection (1), or appearing on a fishing boat or fishing vessel marked as specified in subsection (2).

41. Reporting

(1) The master or owner of any licensed fishing boat or fishing vessel shall keep a fishing logbook in such form as may be approved in writing by the Permanent Secretary.

(2) The master or owner of any fishing boat or fishing vessel referred to in subsection (1) shall submit to the Permanent Secretary the fishing logbook, and any other catch data, that may be required within the time period specified in any fishing agreement under section 35 or in the conditions of the licence issued in respect of the fishing boat or fishing vessel, as the case may be.

Sub-Part B – Mauritian fishing boats and Mauritian fishing vessels

42. Registration of Mauritian fishing boats

(1) The owner of any Mauritian fishing boat shall register such boat with the Permanent Secretary.

(2) Subsection (1) shall not apply to any boat belonging to the Government.

43. Mauritian fishing boats

A fishing boat shall qualify for registration as a Mauritian fishing boat where it is wholly owned by –

- (a) the State of Mauritius; or
- (b) one or more persons who are citizens of Mauritius;
- (c) a statutory corporate corporation in Mauritius; or
- (d) a body corporate, a company or other association incorporated in Mauritius or established under the laws of Mauritius and having a place of business in Mauritius.

44. Application for registration

(1) Any person referred to in section 42(1) may apply to the Permanent Secretary in an approved form for the registration of a fishing boat referred to in section 43.

(2) Notwithstanding subsection (1), where an application is in relation to a fishing boat of 12 metres or more in length overall, the application shall be accompanied by the following documents –

- (a) a document showing that the fishing boat is owned or bareboat chartered by the applicant;
- (b) a certificate from an approved surveyor that the fishing boat is in a seaworthy condition;
- (c) the name of the skipper and full particulars of his certificate of competency;

-
- (d) where the fishing boat was previously registered in another country, a document showing that the fishing boat has been deleted from the register of that country, free and clear of any encumbrances; and
 - (e) such other documents or records as the Permanent Secretary may require.

(2) Upon consideration of an application made under subsection (1) and being satisfied that the fishing boat may be registered, the Permanent Secretary may grant the application and issue a registration certificate, subject to such terms or conditions as he may think fit to impose and upon payment of the prescribed fee.

(3) The Permanent Secretary shall refuse to register a fishing boat where –

- (a) the fishing boat poses a risk to safety of navigation or of pollution;
- (b) the safety, health and welfare of persons employed or engaged in any capacity on board the boat are at stake;
- (c) there is a possibility that the boat would be used for criminal purposes;
- (d) the boat was not operated in compliance with international fishery conservation and management measures;
- (e) the registration would be detrimental to the interests of Mauritius, or against the obligations of Mauritius under any international agreement or convention relating to fishing.

45. Cancellation of registration

(1) The Permanent Secretary may cancel or suspend the registration of a fishing boat referred to under section 42(1) –

- (a) on any of the grounds on which he would have been entitled to refuse registration under section 44(4);
- (b) if he has reason to believe that the fishing boat has been used in contravention of international fishery conservation and management measures on the high seas, or of fishery conservation measures in the EEZ of any State;
- (c) on application by the registered owner stating that he wishes to terminate the registration of the fishing boat; or
- (d) where the Mauritian fishing boat is lost or destroyed.

(2) Before the Permanent Secretary cancels the registration of a fishing boat under subsection (1)(a) or (b), he shall give 14 days notice to the owner of the boat calling upon him to show cause why the registration should not be cancelled.

(3) The Permanent Secretary shall, when cancelling the registration of a fishing boat under this section, give notice thereof, together with his reasons, to the owner within 7 days of his decision.

46. Transfer and modification of fishing boat

(1) No person shall modify the size of a registered Mauritian fishing boat without the written approval of the Permanent Secretary.

(2) Where a transfer in the ownership of a Mauritian fishing boat occurs or where the boat is chartered bareboat, the owner, and the new owner or the hirer, as the case may be, shall, within 14 days, give notice of the sale or transfer or charter to the Permanent Secretary.

(3) Where a Mauritian fishing boat is lost or destroyed, the owner of the Mauritian fishing boat shall, within 7 days, give notice of the loss or destruction to the Permanent Secretary.

(4) Any approval for modification, and any transfer or charter, under this section shall be subject to payment of the prescribed fee.

47. Landing

(1) The owner or master of a Mauritian fishing boat or a Mauritian fishing vessel licensed under section 36 shall land its catch within the limits of Port Louis harbour, or a fish landing station, as may be specified in the licence.

(2) Notwithstanding subsection (1), the Minister may, subject to such terms and conditions as he may determine, authorise the owner or master of a Mauritian fishing boat or a Mauritian fishing vessel licensed under section 36 to land fish at a place other than a place referred to in subsection (1).

48. Mooring

No person shall moor a fishing boat or fishing vessel in an area within which the use of a fishing boat, a fishing vessel or a pleasure craft is prohibited under any enactment.

49. Abandoned fishing boats

(1) Where the Permanent Secretary is of opinion that a fishing boat or any equipment or article used in connection with a fishing boat, has been sunk, stranded, abandoned or run aground in the maritime zones, and is likely to become an obstruction, a danger to navigation or the public, or is found in a dangerous or hazardous state, or is an eye sore, he may –

- (a) take possession of the fishing boat, equipment or article;
- (b) light or buoy the fishing boat.

(2) Where the owner of the fishing boat, equipment or article, is known, the Permanent Secretary shall give notice to the owner that if he does not, within 14 days of the notice, take back possession of the boat, equipment or article, he will dispose of it as provided for under subsection (5).

(3) Where the owner referred to in subsection (1) is not known, the Permanent Secretary shall publish the notice referred to in subsection (2) in 2 daily newspapers for 2 consecutive days.

(4) Where the owner takes possession of the fishing boat, equipment, or article, he shall pay any prescribed fee and any expenses incurred by the Permanent Secretary for the purposes of subsections (1) and (2).

(5) Where following a notice under subsection (2) or (3), no person establishes a claim on the fishing boat, equipment or

article, within 30 days of the notice, or the last publication, as the case may be, the Permanent Secretary may –

- (a) sell the fishing boat, equipment, or article; or
- (b) dispose of it as he deems fit having regard to the state in which the boat, equipment or article was found.

(6) Where a person establishes to the satisfaction of the Permanent Secretary that he was the owner of the fishing boat, equipment or article, within a delay of 6 months from the date of sale, the Permanent Secretary shall pay to that person the proceeds of sale after deduction of any prescribed fee, and such expenses as may have been incurred, by the Permanent Secretary.

(7) Where no claim is made under subsection (6), the Permanent Secretary shall pay the proceeds of sale into the Consolidated Fund.

(8) The Permanent Secretary shall be discharged of all liabilities where he disposes of a fishing boat, equipment or article under subsection (5)(b).

(9) For the purposes of this section, the Permanent Secretary shall, in determining whether a fishing boat, equipment or article is abandoned, have regard, *inter alia*, to –

- (a) whether the fishing boat was registered;
- (b) the state of the fishing boat, equipment or article;
- (c) the period of time the fishing boat, equipment or article has been left unattended.

50. Departure of licensed Mauritian fishing boats and licensed Mauritian fishing vessels

(1) The master of a licensed Mauritian fishing boat or licensed Mauritian fishing vessel shall not leave a port on a fishing trip unless he has obtained a written clearance from the Permanent Secretary.

(2) For the purposes of obtaining a clearance under subsection (1), the owner or master of a licensed Mauritian fishing boat or a licensed Mauritian fishing vessel or his agent shall, 3 days prior to leaving port for a fishing trip –

- (a) inform the Permanent Secretary of the intended date and time of departure of the boat or vessel;
- (b) comply with such conditions as may be determined by the Permanent Secretary; and
- (c) submit such documents as may be required by the Permanent Secretary.

(3) Upon receipt of any information under subsection (2)(a) and after considering the document submitted under subsection (2)(c), and on being satisfied that the master, owner or agent has complied with the conditions imposed under subsection (2)(b) and that the fishing boat or fishing vessel may be allowed to proceed on a fishing trip, the Permanent Secretary shall issue to the master, owner or agent a written clearance to that effect, subject to such terms and conditions as the Permanent Secretary may think fit to impose.

51. Arrival of licensed Mauritian fishing boats or licensed Mauritian fishing vessels

(1) The master, owner or agent of a licensed Mauritian fishing boat or a licensed Mauritian fishing vessel shall, 2 days prior to the boat or vessel reaching Port-Louis harbour or the fish landing station as may be specified in the licence issued in respect of the fishing boat or fishing vessel, inform the Permanent Secretary of the expected time of arrival of the fishing boat or fishing vessel in Port Louis or the fish landing station by letter, fax or email.

(2) On reaching Port Louis or the fish landing station referred to in subsection (1), the master shall immediately –

- (a) submit to the Permanent Secretary –
 - (i) a report on the species composition of the catch;
 - (ii) information relating to the origin of the catch, the catch and effort in accordance with the approved fishing logbook;
 - (iii) the fishing logbook of the fishing boat or fishing vessel for examination;
 - (iv) such other information as the Permanent Secretary may require; and
- (b) make its catch available to the fishery control officer for verification and sampling.

(3) Where the Permanent Secretary is satisfied that subsections (1) and (2) have been complied with, he shall issue a fish landing permit.

Sub-Part C – Foreign fishing boats or foreign fishing vessels**52. Stowage**

The master of a foreign fishing boat or a foreign fishing vessel shall keep its gear stowed –

- (a) while the boat or vessel is within the maritime zones and is not licensed under section 34;
- (b) while being in a place where the boat or vessel is not authorised to fish.

53. Entry into and exit from the maritime zones

The master of any foreign fishing boat or foreign fishing vessel or his agent shall provide, by letter, fax or email, to the Permanent Secretary at least 24 hours before the boat or vessel enters into, or exits from, the maritime zones, its position at the time of entry into, or exit from, the zones and the quantity of fish on board by species.

54. Entry into a Mauritian port

The master of any foreign fishing boat or foreign fishing vessel or his agent shall, by letter, fax or email, at least 72 hours before entry into port, notify the Permanent Secretary and inform him of the purpose of its call into port, submit to him a copy of the vessel, or boat's authorisation to fish, and information on the quantity of fish on board.

PART VIII – ENFORCEMENT**55. Warrant to enter and search**

(1) A Magistrate shall, where he is satisfied by information upon oath that there is reasonable ground to believe that an offence

against this Act has been, is being or is about to be committed, issue a warrant authorising a fishery control officer to enter and search any boat, vessel, premises or dwelling house.

(2) Where the Permanent Secretary is satisfied by information upon oath that –

- (a) there is reasonable ground to believe that an offence against this Act has been, is being or is about to be committed; and
- (b) communication with a Magistrate for the purpose of securing a search warrant may cause delay,

he may issue a search warrant authorising a fishery control officer to enter and search any boat, vessel, or premises, except a dwelling house.

56. Liability of owners of gears used in commission of offences

(1) Where a vehicle, gear or any other article is used in the commission of an offence under this Act, the owner shall be deemed to have committed the offence unless he proves –

- (a) that he was not a party or privy to the commission of the offence; and
- (b) that he took all reasonable steps to prevent the use of the vehicle, gear or any other article for the commission of the offence.

(2) Where a boat or vessel is used in the commission of an offence under this Act, the owner, in addition to the

master, shall be deemed to have committed the offence unless he proves –

- (a) that he was not a party or privy to the commission of the offence;
- (b) that he took all reasonable steps to prevent the use of the vessel or boat for the commission of the offence.

57. Implementation of international fishery conservation and management measures

(1) Subject to sections 17(2) and 39, the master or owner of a foreign fishing boat or foreign fishing vessel shall not land or tranship fish or fish products, except –

- (a) in a port or at an offshore terminal of Mauritius; and
- (b) upon obtaining a written clearance from the Permanent Secretary.

(2) For the purposes of subsection (1)(b), the fishery control officer may board and inspect a foreign fishing boat or foreign fishing vessel, and may –

- (a) examine and take copies of the certificate of registry, the fishing licence and any other relevant documents, including fishing logbooks;
- (b) inspect the fishing gear;
- (c) examine any navigational, position fixing, observation or communication equipment, or other device on board;

- (d) examine any fish or fish product on board; and
- (e) ascertain the origin, species, form and quantity of fish and fish products.

(3) Where pursuant to an inspection under subsection (2), the Permanent Secretary has reason to believe that a foreign fishing boat or foreign fishing vessel was involved in any fishing activity in contravention of any international fishery conservation and management measure, he may –

- (a) prohibit the boat or vessel to land or tranship its fish in a Mauritian port or at an offshore terminal;
- (b) promptly notify the appropriate authorities of the flag state of the foreign fishing boat or foreign fishing vessel; and
- (c) provide to the appropriate authorities of the flag state of the foreign fishing boat or foreign fishing vessel, such information, including evidentiary material, relating to that contravention.

58. Power of search and seizure

(1) Where a fishery control officer has reason to believe that an offence under this Act has been, is being or is about to be committed, and considers that it would be impracticable to apply for a warrant, the fishery control officer may, without a warrant –

- (a) stop, board, search and inspect –
 - (i) in Mauritius or in its maritime zones, any boat or vessel;

- (ii) on the high seas, any Mauritian fishing boat or Mauritian fishing vessel or any fishing boat or fishing vessel flying the flag of a State party to an international agreement to which Mauritius is also a party and which provides for such stopping, boarding and searching;
 - (b) stop and search any vehicle;
 - (c) in the maritime zones or in Mauritius, seize –
 - (i) any vehicle, boat, vessel or structure;
 - (ii) any logbook, record, document or equipment, including any computer or any other electronic device, that may be used as evidence in any proceedings under this Act;
 - (iii) any gear;
 - (iv) any article.
- (2) In the course of a search and inspection under subsection (1), the fishery control officer may –
- (a) examine and take copies of any certificate of registry, licence, logbook or any other document relating to the boat or vessel and its fishing activities;
 - (b) examine any fishing gear, fish or fish product;
 - (c) examine any navigational, position fixing, observation or communication equipment or other device on board;

- (d) take samples of any fish or fish product found on board;
- (e) where the weather or technical conditions do not allow the carrying out of the inspection, require the master of the boat or vessel to take the boat or vessel to any place, port or harbour for the purpose of performing or completing his inspection.

(3) Where a fishery control officer has reason to believe that a violation of a fisheries management measure under an international agreement to which Mauritius is a party has been committed on the high seas, and considers that it would be impracticable to apply for a warrant, the fishery control officer may, without a warrant –

- (a) seize and detain any Mauritian boat or vessel;
- (b) where authorised by an international agreement to which Mauritius is a party, seize and detain a foreign boat or foreign vessel,

together with its gear, store and cargo, fish, or other article which he has reason to believe has been used in the commission of the violation.

(4) Any boat, vessel or other articles seized under subsection (3) shall be dealt with in accordance with sections 63 and 71.

(5) Any boat or vessel seized under subsection (1)(c) shall be taken to Port Louis, or to other suitable port in Mauritius together with such persons employed on the fishing boat or vessel as he reasonably believes he would require for the purposes of investigating the offence.

59. Power to arrest and detain

Where a fishery control officer finds a person fishing or conducting any related activity, or in possession of any fish or gear, or selling fish caught, in breach of this Act, he may, without a warrant –

- (a) stop that person; and
- (b) require that person to give –
 - (i) his name and address;
 - (ii) the name and address of the owner of any boat or vessel used in the commission of the suspected breach of the Act.

60. Seizure of fish

A fishery control officer may seize any fish or fish product caught, landed, sold or stored, in breach of this Act.

61. Duties of fishery control officers

A fishery control officer shall, while in the exercise of his powers under this Act, produce on request such means of identification as determined by the Permanent Secretary for the purposes of enforcing this Act.

62. Pursuit beyond the maritime zones

(1) A fishery control officer may, without a warrant, following hot pursuit in accordance with international law as reflected in article 111 of the United Nations Convention on the Law of the Sea –

- (a) stop, board and search outside the maritime zones, any foreign fishing boat or foreign fishing vessel which he has reason to believe has been

used in the commission of an offence under this Act and bring such boat or vessel and all persons and things on board to any place, port or harbour in Mauritius;

- (b) exercise beyond the maritime zones all the powers conferred to a fishery control officer under this Act.

(2) The powers conferred upon a fishery control officer under this Act shall cease when the foreign fishing boat or vessel enters the territorial sea of another State.

63. Custody of seized items

(1) Pending judicial proceedings or compounding, an item referred to in –

- (a) section 58(1)(c)(i) shall be entrusted to the custody of its owner, subject to such terms and conditions as may be imposed in writing by the Permanent Secretary;
- (b) section 58(1)(c)(ii), (iii) and (iv) shall be kept in the custody of the Permanent Secretary.

(2) Any person who attempts to destroy, destroys or purloins any item seized under section 58(1)(c)(i) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000,000 rupees or the US dollar equivalent.

64. Custody and disposal of found items

(1) Subject to section 49, any fish, gear or article found by a fishery control officer shall be placed under the custody of the Permanent Secretary.

(2) Where the owner of any fish, gear or article referred to under subsection (1) cannot be identified, the Permanent Secretary may cause the fish gear or article to be disposed of as the Permanent Secretary may deem appropriate including a sale at a reasonable price.

65. Security for release of seized items

(1) The owner or the person from whom an item was seized under section 58 (1)(c) may apply to the Judge in Chambers for the release of the seized item.

(2) The Judge in Chambers shall not release an item –

- (a) which is prohibited for use;
- (b) for which a licence has not been issued where such licence is necessary for its operation;
- (c) unless the applicant furnishes a security or other guarantee determined by the Judge in Chambers.

(3) In fixing the security or other guarantee, the Judge in Chambers shall have regard to –

- (a) the value of the seized item;
- (b) the maximum fine for the alleged offence ; and
- (c) any costs or expenses incurred or reasonably foreseen to be incurred by the State and recoverable under this Act.

(4) Any security or other guarantee granted under subsection (2) shall be of no effect where the applicant produces the item when called upon to do so by any court hearing his case.

66. Disposal of fish

(1) Where any fish or fish product is seized under section 60, the Permanent Secretary may return the fish or fish product to the person from whom it was seized on provision of adequate security equivalent to the value of the fish or fish product, or cause the fish or fish product, to be sold at a reasonable price.

(2) The Permanent Secretary shall deposit the proceeds of the sale with the Accountant General.

(3) The security furnished under subsection (1) or sum deposited under subsection (2) shall –

- (a) be applied towards the payment of any fine and costs imposed on the person referred to in subsection (1); or
- (b) be refunded to that person –
 - (i) if he pays the fine and costs; or
 - (ii) judicial proceedings are not undertaken against him.

67. Application of the Public Officers Protection Act

The Public Officers Protection Act shall apply to any fact, act or omission under this Act notwithstanding the fact that the fact, act or omission took place outside the maritime zones in accordance with sections 58 or 62.

68. Suspension and cancellation

(1) Subject to subsection (3), the Minister or the Permanent Secretary may suspend or cancel any licence issued by him under this Act where –

- (a) the fishing boat, fishing vessel or gear in respect of which the licence was issued, is used in contravention of, or the licensee is engaged in any activity in contravention of –
 - (i) this Act;
 - (ii) any fisheries agreement referred to in this Act;
 - (iii) any regulations made under this Act;
 - (iv) any relevant law in force in Mauritius; or
 - (v) any condition of the licence;
- (b) the licence is in respect of fishing for any species of fish, the stock of which is threatened.

(2) Where a licence is suspended or cancelled under subsection (1) (b), the Minister or the Permanent Secretary shall refund to the licensee the portion of the licence fee equivalent to the number of days remaining until the expiry of the licence.

(3) Before a suspension or cancellation of a licence under subsection (1)(a), the Minister or Permanent Secretary shall afford the licensee the opportunity to make representations to him as to why the licence should not be suspended or cancelled.

PART IX – OFFENCES AND PENALTIES**69. Protection of the aquatic ecosystem**

(1) No person shall place, throw, discharge or cause to be placed, thrown or discharged into the maritime zones or into a river, lake, pond, canal, stream, tributary or wetland any poisonous substance.

(2) No person shall –

(a) except with the written approval of the Permanent Secretary, cut, take or remove;

(b) damage,

a mangrove plant.

(3) (a) No person shall place, construct or cause to be placed or constructed any structure within the territorial sea or internal waters, as defined in the Maritime Zones Act 2005, except with the written authorisation of the Permanent Secretary.

(b) The Permanent Secretary may, on granting an approval under paragraph (a) impose such terms and conditions as he may deem fit.

70. Offences and penalties

(1) Any person who –

(a) contravenes section 8(1), 8(9), 9(1), 9(2), 10(1), 12(1)(a), (b), (e) to (g), 13(1), 14(3), 16(1), 18(1), 18(3), 19, 20(2), 20(3), 21(1), 21(2)(a), 21(4), 21(5), 26(3), 28(1), 32, 33(1), 33(2), 36(2), 41(1),

- 41(2), 42(1), 46(1), 46(2), 46(3), 47(1), 48(1), 50(1), 51(1), 51(2), 69(2) shall, on conviction, be liable to a fine not exceeding 100,000 rupees;
- (b) contravenes section 14(1), 14(2), 15(1), 17(1), 22(1)(a), 22(2)(a), 23(1)(a), 23(2), 25(2), 26(1), 27(1), 69(1), 69(3)(a) shall, on conviction, be liable to a fine not exceeding 500,000 rupees;
- (c) contravenes section 17(2), 24, 25(1), 36(1), 39(1), 57(1), shall, on conviction, be liable to a fine not exceeding 3,000,000 rupees;
- (d) contravenes section 12(1)(d), 40(2), 52, 53, 54, shall, on conviction, be liable to a fine not exceeding 20,000 US dollars;
- (e) fails to comply with any terms or conditions imposed under section 8(5)(b), 9(3), 13(2), 16(2), 17(3), 18(2)(b), 21(2)(b), 22(1)(b), 22(2)(b), 23(1)(b), 29(4)(b), 36(5)(a), 44(3), 47(2), 50(3), 69(3)(b) shall, on conviction, be liable to a fine not exceeding 50,000 rupees;
- (f) fails to take the action directed under section 10(2) shall, on conviction, be liable to a fine not exceeding 100,000 rupees;
- (g) contravenes section 34(1), 34(2), 40(3) shall, on conviction, be liable to a fine, payable in the currency of the licence fee, not exceeding 100

times the amount payable as licence fee for a period of 30 days or 1,000,000 US dollars whichever is higher;

- (h) contravenes section 12(1)(c) shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

71. Forfeiture

Where a person is convicted of an offence under this Act, the court may, in addition to any other penalty –

- (a) order the forfeiture of any vehicle, boat, vessel, gear, article, or structure, used in the commission of the offence under this Act;
- (b) order the forfeiture of any fish caught in breach of this Act.

72. Giving false information and tampering with evidence

A person who –

- (a) is required to supply any information under this Act and knowingly fails to supply such information or provides false, incorrect or misleading information;
- (b) falsifies, conceals, destroys or tampers with evidence which can be used in the course of inquiries or judicial proceedings,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees.

PART X – MISCELLANEOUS**73. Jurisdiction**

(1) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate –

- (a) shall have jurisdiction to try an offence referred to in section 70(a), (b), (d), (e), (f) and (h) and regulations made under this Act; and
- (b) may impose any penalty provided for those sections or regulations.

(2) The Intermediate Court shall have jurisdiction to try any offence under this Act and impose any penalty provided therefor.

74. Regulations

(1) The Minister may make regulations for the purposes of this Act, and in particular for the purpose of –

- (a) prescribing measures and conditions –
 - (i) under which fish farming and fish ranching are to be carried out; and
 - (ii) for the control of diseases in fish farms;
- (b) delimiting areas within the maritime zones which shall be reserved for fishing by Mauritian fishing boats or Mauritian fishing vessels;
- (c) prescribing measures for the registration of fishermen;
- (d) prescribing the conditions for licensing of fishing boats and fishing vessels, format and content of

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- licences and the procedure for their issuance, cancellation and revocation;
- (e) requiring a fishing boat or a fishing vessel to be equipped with specified communications, position fixing instrument, and other equipment;
 - (f) prescribing fisheries management and conservation measures, including mesh size, gear specifications, minimum sizes of species of fish, closed seasons, closed areas, prohibited methods of fishing or gear, schemes for limiting entry into all or any specified fisheries and schemes for setting and allocating quotas;
 - (g) prescribing measures for the protection of corals and shells;
 - (h) prescribing measures for the protection, conservation and management of marine protected areas and artificial reefs;
 - (i) prohibiting the fishing of any toxic fish;
 - (j) prohibiting the fishing of certain species, size or gender of fish;
 - (k) providing for the levying of fees and charges;
 - (l) prescribing measures to ensure the safety and security of fishermen at sea;
 - (m) prescribing measures to ensure the safety and security of fishing boats;
 - (n) prescribing rules governing the use of fish aggregating devices and regulating fishing activities in their vicinity;

- (o) prescribing the operation of, and conditions and procedures, to be observed by any foreign fishing boat or foreign fishing vessel entering the maritime zones and while in such zones;
- (p) regulating the management of fishery resources and fishing activities in relation to sports and recreational fishing;
- (q) regulating the handling, storing, processing, transporting, transshipping and exporting of fish or fish products and the operation of a one-stop-shop for those purposes;
- (r) prescribing measures for operating a fishing base for fishing within the maritime zones;
- (s) providing for the placing of observers on board any fishing boat or fishing vessel licensed under this Act to fish or carry out any related activity in the maritime zones or beyond as the case may be and prescribing rules relating to observers;
- (t) regulating the manufacturing, import and export of gear;
- (u) regulating import, trade in, distribution and marketing of fish and fish products and prescribing measures and conditions for the operation of a fish auction market;
- (v) manning of fishing boats, provision of training, the conduct of examinations, and the issue of certificates;

- (w) prohibiting the use of any boat within such areas as may be prescribed;
- (x) surveying and certification of fishing boats;
- (y) accommodation on board fishing boats;
- (z) prescribing such other measures to combat illegal, unreported and unregulated fishing activities;
- (aa) prescribing any other matter relating to fisheries for the purposes of this Act; and
- (ab) prescribing the measures for the operation of laboratories responsible for carrying out analyses of fish and fish product for export, of sea water and tests for toxicity in fish.

(2) Regulations made under this Act may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees, or the US dollar equivalent.

(3) Notwithstanding subsection (2), regulations made under subsections (1)(b), (e), (o), (w) and (z) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000,000 rupees, or the US dollar equivalent.

75. Compounding

(1) The Permanent Secretary may, where an offence has been committed whilst using a boat or vessel –

- (a) compound the offence, except an offence under section 12(1)(b) and (c), if the owner or master of

the boat or vessel admits the commission of the offence and agrees in writing to pay such amount of money which shall not exceed the maximum fine specified for the offence in the Act;

- (b) order the release of any item seized under section 58 of this Act on payment of a sum of money not exceeding the estimated value of the seized item as may be agreed in writing by the owner or master of the boat or vessel.

(2) A Compounding Commission shall be established to assist the Permanent Secretary in determining the amount of money to be paid by the offender under subsection (1), having due regard, *inter alia*, to the circumstances of the case and the past behaviour of the offender.

(3) The Compounding Commission shall be appointed on a part-time basis and shall consist of –

- (a) a Chairperson, who shall be a law officer of at least 10 years standing, appointed by the Minister;
- (b) 2 senior officers from the Ministry responsible for the subject of fisheries, designated by the Permanent Secretary.

(4) The Chairperson and the members shall be paid such fees as shall be determined by the Minister.

(5) Every agreement to compound shall be final and conclusive.

(6) Where the amount agreed upon under this section is not paid in accordance with the compounding agreement, the Permanent Secretary shall send a certified copy of the agreement to the

competent court which shall thereupon proceed to enforce such agreement in the same manner as if it had imposed such agreed amount by way of a fine.

(7) On payment of the agreed amount in accordance with the compounding agreement, no further proceedings in regard to such particular offence shall be taken against the person who has so agreed to the compounding.

76. Rewards

(1) The Minister may, on the seizure of any fish, boat or vessel, or on the recovery of any penalties under this Act or regulations made under this Act, direct that a reward shall be given or paid to any person through whose information or means the seizure had been made or the penalty recovered, and whom he deems to be entitled to a reward.

(2) No reward shall be given or paid under subsection (1) unless the Minister is satisfied that there has been no collusive activity planned to secure the reward.

77. Photographic evidence

(1) Where a photograph is taken of any fishing or related activity and simultaneously the date and time and position from which the photograph is taken are superimposed upon the photograph, it shall be *prima facie* evidence that the photograph was taken on the date, at the time and in the position so appearing.

- (2) The provisions of subsection (1) shall apply only when –
- (a) the camera taking the photograph is connected directly to the instruments which provided the date, time and position concerned;

- (b) the instruments which provide the date, time and position are recognized as being accurate and were checked by the fishery control officer, as soon as possible after the taking of the photograph against such instruments; and
- (c) the photograph was taken by a fishery control officer.

(3) Any fishery control officer who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating –

- (a) his name, address, official position and place of appointment;
- (b) the name and call sign, if known, of any fishing boat or fishing vessel appearing in the photograph;
- (c) the type of camera and other devices supplying the date and time and of the position fixing instrument;
- (d) that he checked those devices and instruments a reasonable time before and after the taking of the photograph and that they all appeared to be working correctly; and
- (e) the accuracy of the position fixing instrument used within specified limits.

78. Position fixing instrument

(1) Any information or data transmitted automatically by a position fixing instrument shall be *prima facie* evidence that such information or data –

- (a) came from the fishing boat or fishing vessel so identified;

- (b) was accurately relayed or transferred; and
- (c) was given by the master or owner of the fishing boat or fishing vessel,

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

(2) Subsection (1) applies irrespective of whether or not the information or data was stored before or after any transmission or transfer.

(3) Any fishery control officer may issue a certificate stating –

- (a) his name, address, official position and place of appointment;
- (b) that he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information or data transmitted by a position fixing instrument;
- (c) the date and time the information or data was obtained or ascertained from the position fixing instrument as well as the position of the fishing boat or fishing vessel at such date and time;
- (d) the name and call sign of the fishing boat or fishing vessel on which the position fixing instrument is or was installed; and
- (e) that there appeared to be no malfunction in the position fixing instrument, its transmissions or any other machines used in obtaining or ascertaining the information or data transmitted by the position fixing instrument.

(4) Any person who destroys, damages, renders inoperative or otherwise interferes with a position fixing instrument aboard a fishing boat or fishing vessel shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000,000 rupees or the US dollar equivalent.

79. Repeal

The Fisheries and Marine Resources Act is repealed.

80. Transitional provisions

(1) A permit or licence issued, or registration made, under the Fisheries and Marine Resources Act 1998 and Fisheries Act 1980 shall be deemed to have been issued or made under this Act.

(2) Notwithstanding subsection (1), the Minister may make necessary regulations for the transition from the repealed Act to this Act.

81. Consequential amendment

The National Coast Guard Act is amended –

(a) by adding immediately after section 12 the following new section –

12A. Departure and arrival of Mauritian fishing boats and vessels

(1) The master or owner of a Mauritian fishing boat or Mauritian fishing vessel or his agent shall by letter, fax or email –

(a) at least 24 hours prior to leaving port for a fishing trip, inform the National Coast Guard of the intended

date and time of departure of the boat or vessel;

- (b) at least 2 days prior to reaching Port Louis harbour or a fish landing station specified in the fishing licence issued in respect of the fishing boat or fishing vessel, inform the National Coast Guard of the expected time of arrival of the fishing boat or fishing vessel in Port Louis or at the fishing landing station.

(2) The master or owner of any foreign fishing boat or foreign fishing vessel or his agent shall, by letter, fax or email –

- (a) at least 24 hours before entry into, or exit from, the maritime zones, inform the National Coast Guard of its position at time of entry into, or exit from, such zone and the quantity of fish on board by species.
- (b) at least 72 hours before entering a port, inform the National Coast Guard of its entry and furnish a copy of the boat's or vessel authorisation to fish, the quantity of fish on board and the purpose of call in the port.
- (b) in section 15 by deleting the words “section 11(3) or 13” and replacing them by the words “section 11(3), 12A or 13”.

82. Commencement

(1) This Act shall come into operation on a day to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different provisions of this Act.

Passed by the National Assembly on the thirteenth day of November two thousand and seven.

Ram Ranjit Dowlutta
Clerk of the National Assembly

SCHEDULE

(section 16(2)(c))

Undersized fish that may be used as bait

| <i>Fish</i> | <i>Commonly known as</i> |
|--|--------------------------|
| (a) Mugil sp. & Valamugil spp. ... | ... Mullet |
| (b) Parupeneus spp. Upeneus spp. Mulloides spp. | ... Rouget |