

THE FISHERIES ACT, 2003

TABLE OF CONTENTS

Section

Title

PART I

PRELIMINARY PROVISIONS

1. Short title, commencement and application.
2. Interpretation.

PART II

ADMINISTRATION

3. Responsibilities of the Minister.
4. Appointment of Director and his functions.
5. Registration, licensing, enforcement officers and Inspectors.
6. Conflict of interests.
7. Information to members of the public.
8. Relation between Ministry, local authorities and fisheries management authorities.

PART III

DEVELOPMENT OF THE FISHING INDUSTRY

9. Development and sustainable use of aquatic resources.

PART IV

AQUA CULTURAL DEVELOPMENT

10. Regulation of aqua culture practices.
11. Aqua culture not to impair other activities.
12. Register of aqua farmers.
13. Control of genetic and species diversity.
14. Use of genetic resources.
15. Monitoring and control of disease in fish.
16. Protection of trans-boundary ecosystems.

PART V

MANAGEMENT AND CONTROL OF THE FISHING INDUSTRY

17. Management and control measures.
18. Beach management units.
19. Prohibition of foreign fishing in territorial waters.
20. Licensing of foreigners.

- 21. Certificate of registry.
- 22. Prohibition of certain activities without licence.
- 23. Conservation of fisheries resources.

PART VI

FISH QUALITY, MANAGEMENT AND STANDARDS

- 24. Conditions for quality management.
- 25. Competent authority.
- 26. Prevention of commercial fraud.
- 27. Fish marketing.

PART VII

FINANCIAL PROVISIONS

- 28. Power to charge fees.
- 29. Fisheries Development Fund.
- 30. Purpose of the Fund.

PART VIII

ENFORCEMENT

- 31. Surveillance Unit.
- 32. Functions of the Unit.
- 33. Powers of the Unit.
- 34. Power to prosecute.
- 35. Certificate of evidence.
- 36. Power of search and seizure.
- 37. Seizure of things used for commission of offence.
- 38. Forfeiture of things used for commission of offence.
- 39. Forfeiture upon conviction.
- 40. Power to compound offences.

PART IX

OFFENCES AND PENALTIES

- 41. Obstruction of officers.
- 42. Indemnity.
- 43. Penalty for possessing or using explosives.
- 44. Penalty for using poison.
- 45. Penalty for using foreign fishing vessel without licence.

- 46. Penalty for violating fish quality standards.
- 47. Penalty for other offences.
- 48. Abandoned vessel, gear, fish or fishery products.
- 49. Rewards.
- 50. Protection of informers.

PART X

GENERAL PROVISIONS

- 51. Sovereignty over biological resources.
- 52. Environmental Impact Assessment.
- 53. Research priority areas and facilitation.
- 54. Call for research information.
- 55. Call for information from licence.
- 56. Exemptions.
- 57. Regulations.
- 58. Act to prevail over by-laws.
- 59. Repeals.

—————
SCHEDULE
—————

THE UNITED REPUBLIC OF TANZANIA



I ASSENT,

Benjamin W. Mwaip

 President

30th January, 2004.

An Act to repeal and replace the Fisheries Act, 1970, to make provision for sustainable development, protection, conservation, aquaculture development, regulation and control of fish, fish products, aquatic flora and its products, and for related matters.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1.—(1) This Act may be cited as the Fisheries Act, 2003 and shall come into operation on a date which the Minister may by notice published in the *Gazette*, appoint.

Short title
 com-
 mence-
 ment and
 applica-
 tion

(2) This Act shall apply to Mainland Tanzania.

2. For the purpose of this Act unless the context requires otherwise-

Interpre-
 tation

“Act” means the Fisheries Act, 2003;

“aquaculture” means the practice of breeding and raising aquatic organisms in a controlled aquatic environment until they attain the appropriate size as per need, and includes the raising of marine,

- brackish or freshwater organisms, either caught from their natural or artificial environment as seed and kept until they reach the desired size;
- "aquatic flora" means all aquatic plants and other members of the aquatic plant kingdom including corals, spongers and weeds;
- "aquatic substrate" means any rock, stone, gravel, sand, shell, limestone, dead coral, whether or not removed from its natural location;
- "approval number" means a unique combination of letters and numbers assigned by the Director to a fish processing establishment located on land or a fishing vessel for the purpose of showing that the establishment or a fishing vessel has been inspected and conforms with the required layout and standards;
- "artisanal fisheries" means categories of fisheries that are of small scale and not commercially orientated, using relatively small amount of capital and in which fishers have usually a traditional involvement with fishing;
- "auditor" means a fish inspector authorized to check on compliance of quality standards regulations issued under this Act;
- "authorized associations" means any body of persons incorporated or not incorporated and includes a beach management unit declared so under this Act;
- "authorized officer" means the Director or any fisheries officer or a member of beach management unit or other person authorized in writing by the Director to exercise any power or to discharge any duty under this Act or any subsidiary legislation made under this Act;
- "batch" means a quantity of fish or fishery products obtained under practically identical circumstances;
- "beach management unit" means a group of devoted stakeholders in a fishing community whose main function is management conservation and protection of fish in their locality in collaboration with the government;
- "beach seine" means a fishing net designed to hang vertically in the water, the ends being drawn together to the beach while the foot rope drags through the fishing ground;
- "biological diversity" means the varieties of all forms of life;
- "buffer zone" means beach area measured immediately after the highest water mark and it extends landwards to 260 meters; the first 60 meters can be used on temporary basis while the next 200 meters can

- be used for different purposes subject to permission granted by the Minister responsible for lands;
- "chiller" means a suitable insulated hold or room where fish or fishery product is kept at a temperature between 0°C and 4°C;
- "chilling" means the process of cooling fish or a fish product to temperature approaching that of melting ice (0°C);
- "chilled product storage hold" means suitable hold or room with a cooling medium in which a product is stored;
- "chief fisher" means a person in charge of a fish landing station;
- "citizen" have the meaning ascribed to it by the Citizenship Act, 1995;
- "coastal zone" means the area from the baseline of territorial sea landward side to 60 meters as prescribed by the Land Act, the land adjacent to natural or man made water bodies or water mark;
- "cold store" means an approved premise where fish or fishery product is stored at temperature of - 18°C or lower;
- "closed period" means any period during which, in relation to any specie or kind of fish, or aquatic flora, such fish, or aquatic flora, as the case may be, may not be captured, killed, injured, gathered or collected;
- "commercial fisher" means any person who engages in fishing for the purpose of catching fish for sale;
- "competent authority" means the Director or any other officer delegated by the Director to perform functions under this Act;
- "critical deficiency" means any condition or malpractice observed in the establishment, which can lead to fish becoming unsafe or unwholesome;
- "critical habitat" means a habitat that is essential for maintaining integrity of an ecosystem, species or assemblages of species;
- "critical limit" means a physical value of chemical or biological parameter which separates acceptability from unacceptability;
- "corrective measure" means any action or activity that can be used to eliminate hazard or reduce their impact or occurrence to acceptable levels;
- "control measure" means any action or activity that can be used to eliminate hazard or reduce their impact or occurrence to acceptable levels;
- "consignment" means a quantity of fish or fishery products destined for one or more customers within or outside the country and conveyed by any means of transport;
- "controlled area" means an area declared to be a restricted area under this Act;

- "coral" means a living or dead calcareous skeleton secreted by polyploid coelenterates of class Anthrozoa;
- "dam" includes any fixed obstruction used for the purpose of retaining or controlling the flow of water;
- "defrosting" means the process of removing frost and ice from freezer and freezer store, refrigerated plate or coils, by the introduction of heat, or brushing and scraping;
- "dehydration" means the loss of moisture from a frozen product through evaporation;
- "Director" means the Director of Fisheries appointed under section 4 of this Act;
- "disinfectant" means a chemical agent that renders an object free from micro-organisms without adversely affecting the object;
- "enforcement officer" means an officer appointed by the Director to perform duties prescribed in Part VIII of this Act;
- "estuary" means an area where river water mixes with sea water or lake water;
- "export" means taking away of fish, fishery products and aquatic flora from the country to any other place outside Mainland Tanzania;
- "explosives" means a dynamite or bomb; or blasting agent, detonators or any material used in the manufacture of explosives;
- "fish" means all forms of aquatic or amphibious life including finfish, dolphin, whale, dugong, shell fish, turtles and includes spat, brood, fry, spawn, ova and young of all such fish, but does not include any aquatic or amphibious animal which the provisions of the Wildlife Conservation Act, 1974, apply or young of any such animal;
- "fishery" means every area, locality or place or stations in or which fishing gear is used, set or place or located and also the area, tract or stretch of water in or from which fish may be taken by such fishing gear;
- "fish dealer" means any person other than a fisher who sells, barter or offers for sale any fish or fish products, and including every person or body of persons whether incorporated or unincorporated, engaged in the buying, bartering, exposing for sale, preparing, processing, packing or storing, landing or transshipping, any fish or fish products, but does not include a hotel, restaurant, cafeteria or other similar establishment which the Minister may declare not to be a fish dealer for the purpose of this Act.;
- "Fish establishment" means any premise or a vessel where fish or fish products are prepared, processed, frozen, packaged or stored, but does not include auction and wholesale markets in which only display and sale by wholesale takes place;

- "fish sanitary certificate" means an official document issued by competent authority for the purpose of attesting the quality of fish and fishery products at the time and site of its departure;
- "Fish Inspector" means an officer designated under section 5(3)(c) of this Act;
- "fisher" means an individual who takes part in fishing, conducted from a fishing vessel, a platform whether fixed or floating or from the shore;
- "fisheries officer" means an officer appointed under this Act to exercise any of the functions allocated to the officer under this Act;
- "fish net or net locally known as *Juya la Kojani or Kavogo* or any other applicable name" means a net with mesh size below 76 mm (3 inches) which are uniform from wing to code-end and while in use its foot rope drags through the fishing ground while the ends are being drawn together;
- "fisheries protection vessel" means a vessel not engaged in commercial activities, deployed by the state, for the purpose of monitoring, control, surveillance and law enforcement; and is clearly identifiable being a government service;
- "fishing" means collecting, capturing, gathering, killing, snaring or trapping of fish or aquatic flora;
- "fishing effort" means the level of fishing, as may be defined *inter alia*, by the number of fishing vessels, number of fishers, amount of fishing gear and the time spent fishing or searching for fish;
- "fishing gear" means any net, line, cork, buoy, basket, trap, hook or other article apparatus, structure construction or installation whatsoever used for the purpose of fishing;
- "fishing ground" means an area or locality in any water body where fishing activity is conducted;
- "fishery product" means anything made, extracted or obtained from fish or aquatic flora;
- "fishing vessel" means vessel, boat, ship or any other navigable craft which is used for fishing or related activities, and includes all its equipment;
- "fishing weir" means any erection, structure, construction or obstruction, placed across or in any water temporarily or permanently fixed to or resting on the bed or a bank, which is designed for the purpose of collection, gathering, capturing, killing fish or aquatic flora, and includes stake, net and basket trap;
- "foreign fishing vessel" means a fishing vessel which is not registered in the United Republic of Tanzania and does not fly the flag of United Republic of Tanzania;

"fresh product" means a fish product whether whole or prepared, which has not undergone any treatment to ensure preservation other than chiking and includes fish product packed under vacuum or in a modified atmosphere;

"fresh water sport fish" means any fish exploited for leisure in lakes, dams or rivers and includes the young and the eggs thereof;

"frozen product" means a fish product which has undergone a freezing process to reach a core temperature of-
18°C or lower, after temperature stabilization;

"genetic resource" means genetic material of actual potential value;

"genetically modified resources" means all stocks used for the purpose of aqua culture and other culture based fisheries after genetic alteration;

"gill net: means a fishing gear made of thread with standard measurement of 26 meshes deep and ninety meters long used for capturing fin fish by gill operculum;

"Government fishing vessel" means any fishing vessel belonging to or in the services of the United Republic of Tanzania;

"good manufacturing practice" means a combination of manufacturing and quality control procedure aimed at ensuring that products are consistent manufactured to their specifications;

"hazard" means a biological or chemical agent or physical condition with the potential to cause harm and includes any of the following-

(a) contamination or re-contamination to unacceptable levels, with a biological, chemical or physical agent or a material, semi finished or unfinished products;

(b) or other undesirable microbial metabolites, generations of chemical, growth or survival of micro-organisms to unacceptable levels in raw materials, semi finished or finished products; and

(c) production or persistence to unacceptable levels, or toxins or other undesirable microbial metabolites;

"Hazard Analysis and Critical Control Point (HACCP)" means approach used-

(a) to assess the potential hazards associated with the production, processing, preparation and distribution of fish and the risk and severity of each hazard;

(b) to identify appropriate preventive, control or measures that can be applied to prevent, eliminate or reduce the hazard to acceptable levels;

(c) to provide assurance that the appropriate prevention; control or corrective actions have been applied correctly;

- "hygiene" means all measures necessary to ensure safety, soundness and wholesomeness of the product at all stages from reception to final delivery;
- "import" means the bringing into the country any fish or fishery product and aquatic flora from any place outside Mainland Tanzania;
- "immature" in relation to any specie of fish means a fish of that specie which is smaller in size or length than the size or length prescribed in this Act;
- "industrial fisheries" means categories of fisheries that are of large scale, commercially oriented and which employ advanced technology;
- "interested party" means any group of persons recognized by management authority as having legitimate interest in the resource being managed;
- "internal trade" means purchasing or selling of fish or fishery product within the country;
- "landing" means the bringing of fish, fishery product or aquatic flora to the harbour, port or beach from within or outside the territorial waters for the first time after being caught;
- "length" means:-
- (a) in relation to a fishing vessel the overall length of the vessel from forward part of the stem to the side or rim timbers;
 - (b) in relation to a lobster, the distance from the head carapace to the end of the body shell (abdominal length) measured along a line parallel to the centre line of body shell;
- "licensing officer" means an officer empowered by the Director to issue licences;
- "local authority" means district authority, or an urban authority as ascribed to it under the Local Government (District) Authorities Act, 1982 or the Local Government (Urban) Authorities Act, 1982;
- "major deficiency" means any condition in a product or environment including equipment and materials which if not corrected within reasonable time is likely to cause adverse health conditions to consumers and or the quality of the product;
- "management" for the purpose of fish processing establishments, includes any person in charge of an establishment;
- "mesh" means the opening or space in a net enclosed by threads of the net or, in the case of a wire net, by the stands of wire;
- "minor deficiency" means any observed condition or malpractice, which does not conform to the sanitary requirements, but is neither major nor serious;
- "Minister" means the Minister for the time being responsible for fisheries;

- "mollusc" means a large phylum of invertebrates without segments or limbs, usually having a mantle or folds of skin that secrete a shell; members of the phylum include lamellibranches, gastropods, cephalopods and scaphopods;
- "net" means fishing gear made of thread or wire or any other material designed to be used for the purpose of collecting, capturing, gathering, killing fish or aquatic flora;
- "owner" as applied to registered fishing vessel or gear, means the registered owner or holder of a fishing licence;
- "oyster" means any mollusc of any species of genus *Crassostrea*;
- "poison" means any natural or synthetic chemical used to kill fish;
- "processing" means cleaning, filleting, icing, packing, canning, freezing, smoking, salting, drying or otherwise preparing of fish or fish products for marketing;
- "product of aquatic flora" means anything made out, or composed wholly or partly of any aquatic vegetation;
- "registered tonnage" in relating to a vessel means the tonnage appearing on her certificate of registry;
- "responsible fisheries" means the principles and standards applicable to conservation, management and development of all fisheries and it covers the capture, processing and trade of fish and fishery products, fishing operations, aqua culture, fisheries research and integration of fisheries into coastal area management;
- "stakeholder" means a person or group of persons or institution whose interests are materially affected, either directly or indirectly, by fishing and fishing related activities subject to this Act;
- "sea fishery" means fisheries of the waters which are to the seaward of the high water mark
- "semi- industrial fishing" means the categories of fisheries that are small scale, commercially oriented, using small amount of capital but without traditional involvement;
- "surveillance" means checking and ensuring compliance with control measures imposed under this Act in fishing and related activity;
- "Tanzania fishing vessel or local vessel" means a fishing vessel registered or licences under this Act which is owned wholly by one or more persons each of whom is a citizen of the United Republic, or by a body corporate or incorporated under and subject to the laws of the United Republic and has its principal place of business in the United Republic also includes a Government fishing vessel;

- "transshipment" means the unloading of all or any of fish or fishery products or product of aquatic flora on board a fishing vessel to another fishing vessel or cargo vessel, a cargo vessel either at sea or in port without the produce being recorded by the port state as landed;
- "traceability" means the ability to trace the history application or locating of an entity by means of recorded identification;
- "trout stream" means any stream which contains trout or any other freshwater sparts fish;
- "territorial waters" means the waters within the area extending offshore to a distance of twelve nautical miles, measured from the mean low water line along the cost of Mainland Tanzania and the adjacent islands, and including all lakes, rivers, dams and fish ponds excluding private fish ponds;
- "water pollution" means the introduction by man directly or indirectly of substances or energy into sea water or freshwater including estuaries which results into or is likely to result in such deleterious effects as harmful to fish and other living organisms, hazard to human health, hindrance to marine activities, including fishing, impairment of quality for the use of sea or freshwater and reduction of amenities;
- "wholesome fish or fishery product" means fish or fishery product which product is not decomposed, tainted or consisting of undesirable foreign materials such as petroleum products, solvent or solid materials (organic or inorganic) and other organisms such as parasites, insects per a sample unit.

PART II

ADMINISTRATION

3. The Minister shall be responsible for policy formulation and ensuring the execution by officials in the ministry such functions connected with the implementation of this Act.

Responsibilities of the Minister

4.-(1) There shall be a Director who shall be an officer in the public service.

Appointment of Director and his functions

(2) The Director shall be a professional officer in fisheries sciences and advisor to the Government in all matters related to management of fisheries.

(3) The Director may from time to time issue and publish circulars and directives that are in conformity with the provisions of this Act for the purpose of enhancing implementation of this Act.

(4) Where the Director is required or empowered by this Act to make a determination affecting or likely to affect the rights of any person or the opportunity for any person to undertake any activity, shall give that person reasons for such decision.

(5) Any person aggrieved by the decision of the Director made in accordance with subsection (4) may within thirty days appeal to the Minister.

Registra-
tion,
licensing,
enforce-
ment
officers
and Inspe-
ctors

5.-(1) There shall be appointed such officers to ensure efficient effective and economical management and supervision of fisheries in accordance with the provisions of this Act.

(2) Officers appointed under this section shall be allocated or delegated such functions and shall be located in such offices or institutions as the Director shall consider appropriate for the proper management of fisheries.

(3) There shall be a central registry of fishing vessels registered in accordance with the provisions of this Act.

(4) For the purpose of this section the Director, shall be the Registrar of fishing vessels.

(5) Subject to the provisions of subsection (2), the Director shall appoint the following-

- (a) vessel registration and licensing officers;
- (b) enforcement officers; and
- (c) fish inspectors.

(6) Officers appointed under this section shall carry identification cards and be answerable to the Director.

(7) The Minister may by notice published in the *Gazette*, designate any person to be an authorized officer for the purpose of all or any provisions of this Act.

(8) The Director shall by notice published in the *Gazette*, and subject to such qualifications or exceptions as may be prescribed therein delegate to such public officer, local authority, the exercise or performance of any of the functions conferred or imposed on him by this Act.

(9) Nothing in this section shall be taken to prevent any local authority from appointing such qualified officers as it considers necessary to enable it to discharge such functions as are vested in it or allocated to it by and under this Act.

(10) Any local authority officers appointed to discharge functions under this Act shall have regard to any directives and circulars issued by the Director.

(11) Notwithstanding the provisions of subsection (5), the names of officers appointed under this subsection shall be published in the *Gazette*.

6.-(1) Where any matter concerning fisheries management in which any officer exercising functions under this Act or any member of his immediate family has an interest allocated to, referred to or otherwise comes to that officer for his advice, assistance or decision, that officer shall not exercise any functions under this Act in respect of that matter.

Conflict of interest

(2) Where the officer referred to in subsection (1) is the Director, he shall declare his interest to the Minister, and where the officer referred to in subsection (1) is an officer appointed under section 5, shall declare his interest to the Director, the Minister or the Director as the case may be, shall appoint another officer to exercise functions in respect of that matter.

7. The Director and all officers appointed under this Act may, where it is appropriate to do so, provide and disseminate information and guidance, in writing by order or notice to members of the public in connection with the implementation of this Act.

Information to members of the public

8.-(1) The Director shall use his best endeavors to ensure that all the local government authorities and associations of local authorities and other fisheries management authorities are consulted and kept informed of management of fisheries under this Act and any other written laws related to the management of fisheries.

Relationship between the Ministry, Local authorities and fisheries management authorities

(2) Where there is any conflict between the local authority management plan and other local authority applicable to a water body, the Director and other relevant officers and members of the local authority shall consult together and use their best endeavors to reconcile any such variances.

(3) Where the Director is of the opinion on the basis of information given to him by any officer exercising functions under this Act or otherwise that a local authority with the responsibility to exercise functions in accordance with the provisions of this Act, Code of Conduct for responsible fisheries, aqua culture development, fishing operations, fisheries management, fish utilization and marketing has mismanaged the functions of this Act, the Director may-

- (a) serve a notice on that local authority requiring it to take the steps specified in that notice within the time specified therein to rectify and improve its fisheries management; or
- (b) serve a notice on that local authority requiring it to show cause, within the time specified therein, as to why the Director should not arrange that such functions of fisheries management as may be specified should be taken over by another local authority or by the Director for such period of time as may be specified in the notice;
- (c) in either case referred to in paragraph (a) or (b), upon making a written request to that local authority, appear before such local authority personally or his representative for the purpose of making representation; and
- (d) if in his opinion, the local authority has failed to show cause as required under paragraph (b) above, prepare and submit a report with recommendations to the Minister on the mismanagement of fisheries functions by such local authority and what action should be taken thereon.

(4) Where the Minister after considering the report from the Director referred to in paragraph (d) of subsection (3) is satisfied that, owing to the mismanagement, by any local authority of any of its functions in relation to fisheries, it is in the public interest that such local authority shall cease to exercise all or any management functions in relations to fisheries, the Minister shall make consultation with the Minister responsible for local authorities in respect of the mismanagement of such fisheries functions.

(5) The Minister responsible for local authority shall, if he is satisfied that there is the mismanagement by the local authority of its functions in relation to fisheries invoke his powers as provided for under section 169 of the Local Government (District Authorities) Act, 1982 and section 71 of the Local Government (Urban Authorities) Act, 1982 and direct the Director or another local authority to take over the functions of such local authority as may be specified.

(6) The other local authority or the Director shall exercise any functions in relation to the management of fisheries which it or he is directed to manage under the provisions of subsection (5) on behalf of and for the benefit of the people within the jurisdiction of the first local authority whose functions have been take over and the net profits of management, if any, shall, after deduction of the costs of management and development, be deemed to be part of the revenue of the first local authority; which shall likewise bear any losses incurred.

(7) For the purposes of this section, a local authority shall include a village council.

PART III

DEVELOPMENT OF THE FISHING INDUSTRY

9.-(1) The Director shall, in co-operation with other appropriate agencies and divisions or departments of the Government, promote, encourage and support all initiatives leading to the development and sustainable use of the fish stock and aquatic resources through such measures as:

Develop-
ment and
sustai-
nable use
of aquatic
resources

- (a) provision of investment guidelines in the fisheries sector;
- (b) facilitation of development and maintenance of fisheries and related infrastructure;
- (c) provisions of the establishment of a code of practice for aqua culture development and fish processing;
- (d) facilitating artisanal fishing, semi-intensive aqua culture with simple technologies and low capital investment including pre-evaluation of the effects of aquaculture on genetic diversity and ecosystem integrity, based on the best available scientific information and through development of short, medium and long term fisheries scientific research Plans;

- (e) promotion of sound utilization of the ecological capacity of water based areas, as a means of generating income and food;
- (f) encouraging the involvement of stakeholders in the planning, development and management of fishery resources;
- (g) improving fisheries statistical data collection and processing through assessment of the adequacy of the existing data collection;
- (h) facilitating the availability, accessibility exchange of fisheries information and storage;
- (i) facilitating initiatives geared towards availability of fisheries inputs;
- (j) pursuing continuation and introduction of fisheries integrated programme of effective management of coastal zone to meet the ecological and social economic needs of the present and future generation; and
- (k) strengthening of regional and international collaboration in the sustainable utilization, management and conservation of resources in shared water bodies by:
 - (i) supporting responsible fishery practices within the country;
 - (ii) cooperation in the promotion of suitable fisheries practices;
 - (iii) ensuring responsible choice of species, sites and management of fisheries which could affect trans-boundary aquatic ecosystems;
 - (iv) consulting with neighbouring states before introducing non-indigenous species into trans-boundary aquatic ecosystems;
 - (v) establishing database and information networks to collect and disseminate data related to fisheries activities to facilitate cooperation on planning for fisheries development at national, sub-regional, regional and global level;
 - (vi) monitoring the impact of inputs used in fisheries: and
 - (vii) discouraging the pollution of aquatic environment.

(2) The Director shall, based on the best scientific evidence available, adopt such appropriate measures to maintain or restore stocks at levels capable of producing maximum sustainable yield pursuant to relevant environmental and economic factors including:

- (a) avoidance, of excessive fishing capacity and over-exploitation of the stocks in order to maintain an economically available fishery;
- (b) promotion of responsible fisheries and the economic conditions under which fishing industries operate;
- (c) taking into account the interest of local fishers such as those engaged in artisanal fisheries;
- (d) conservation and protection of biodiversity of aquatic habitats, ecosystems and endangered species;
- (e) restoration and recovery of depleted stocks;
- (f) assessment of adverse environmental impacts and remedial measures on the resource; and
- (g) minimization of pollution, waste, discards, catch by lost or abandoned gear, catch of non target fish or species and impacts on associated or dependent species through the development and use of selective, environmentally safe and cost effective fishing gear and techniques.

PART IV

AQUA CULTURE DEVELOPMENT

10. The Director in collaboration with other government organs, agencies and institutions shall regulate all aquaculture practices.

Regulation
of aqua-
culture
practices

11.-(1) The Director shall in collaboration with local authorities and other relevant bodies ensure that-

Aquacul-
ture not to
impair
other
activities

- (a) aquaculture development is ecologically sustainable and allows rational use of the resource shared by aqua culture and other activities; and
- (b) the livelihood, culture and traditions of local communities and their access to fishing ground are not affected by aquaculture development.
- (c) local community has access to fishing grounds.

(2) Any person or group of persons who deprive a local community the access to fishing grounds without good cause, commits an offence.

Register of
aqua
farmers

12. The Director shall maintain a register of aqua farmers in the country.

Control of
genetic and
species
diversity

13. No person shall move or cause movement of eggs, fingerling, seed, exotic adult fish, genetically modified species from one water body to another without a written permit from the Director.

Use of
genetic
resources

14. The Director shall cause documentation of wild and genetically modified species to "establish a bench mark for assessing impact of aquaculture.

Monitoring
and control
of disease
in fish

15.-(1) Local authorities shall monitor the performance of aquaculture practices within areas which form part of their jurisdiction.

(2) Where in the opinion of any local authority any fish or fish products in any waters are infected with any epidemic disease, the Director shall, if he is satisfied with the opinion of the local authority give notice in writing to the owner of the waters therein requiring the destruction of all fish or fish products in the said waters or the taking of such other measures as the local authority may specify in the notice.

(3) Any person who receives notice served upon him under subsection (2) of this Act shall comply with the requirements set out therein at his own expenses, and in default of such compliance, the local authority may enter upon the area taken or cause to be taken such measures as may be necessary for complying with the requirement of the notice and any expenses incurred thereon shall be recoverable as a civil debt from the person who has been in default.

Protection
of trans
boundary
ecosystems

16. Subject to the existing regional and sub regional synergies, the Director shall initiate dialogue with riparian states to ensure that governments and aqua farmers are obliged to protect trans-boundary aquatic ecosystems from -

- (a) escapees of cultured species into shared water bodies; and
- (b) effluents that might affect trans-boundary aquatic ecosystems.

PART V

MANAGEMENT AND CONTROL OF THE FISHING INDUSTRY

17. The Minister shall by notice published in the *Gazette* impose conditions that are necessary for the proper management of fisheries which are-

Management and control measures

- (a) restricting the entry of foreign fishing vessels in territorial waters;
- (b) requiring all fishing vessels to be registered;
- (c) requiring all fishing vessels to be licensed;
- (d) requiring all fishers to be licensed;
- (e) restricting the number, size, and age of fishing vessels in any fishery;
- (f) prohibiting the use of certain types of fishing vessels and gears;
- (g) imposing closed season for designated areas, species of fish and methods of fishing;
- (h) prohibiting fishing in designated areas;
- (i) limiting the amount, size, age and other characteristics and monitoring species composition of fish that may be caught, landed or traded
- (j) regulating the landing of fish and providing for management of fish landing stations;
- (k) controlling the importation of fish and fishery products or the introduction of exotic species;
- (l) monitoring the capacity of fishing fleets to avoid excessive fishing pressure;
- (m) establishing a mechanism that will reduce excessive fishing capacity to levels commensurate with the sustainable use of fisheries resources;
- (n) examining the performance of the existing fishing gear, methods and substituting for them those which are consistent with responsible fishing;
- (o) regulating fishing in such a way as to avoid the risk of conflict among fishers using different vessels, gear and fishing methods;
- (p) ensuring that traditional practices, which are consistent with responsible fisheries, needs and interests of indigenous people

and local fishing communities which are highly dependent of fisheries resources for their livelihood are given due regard;

- (q) establishing effective mechanism for fisheries monitoring, surveillance control and enforcement, to ensure compliance with conservation and management measure as well as those adopted by regional or sub regional organizations or arrangements;
- (r) conducting joint surveillance, and enforcement in collaboration with other related agencies and fisher communities to ensure effective implementation of this Act;
- (s) facilitating the formation of community management units and authorized associations for the purpose of protecting and conserving fishery resources;
- (t) requiring all sport fishers to be licensed; and
- (u) regulate transshipment of fish or fish products to ensure compliance with all conservation and fishery management measures.

Beach
Manage-
ment units

18.-(1) The Director may enter into a management agreement with beach management units of the whole or part of or some specific fishery matter or activity within any water body or with any one or more local authorities having jurisdiction within the vicinity of any water body and deriving the whole or a part of their livelihood from that water body.

- (2) A management agreement shall include the following-
 - (a) statement of objectives of the agreement;
 - (b) description of the area covered by the agreement;
 - (c) description of the management activities to be undertaken;
 - (d) rules governing the use of and access to other fishers;
 - (e) duration of the agreement;
 - (t) provision for revision of the agreement; and
 - (g) provision for settlement of disagreement.

19. No foreign fishing vessel shall be licensed to fish in the territorial waters.

Prohibition of foreign fishing in territorial water

20.-(1) Notwithstanding the provisions of section 19, the Director or any authorized officer shall for purposes of scientific research, complementary's educational and food supply with the consent in writing of the Minister, grant any fishing licence or to fish authority, as the case may be, to any person who is not a citizen of the United Republic, or, in the case of a body corporate, to any body corporate which is not incorporated by or under any written law.

Licensing of foreigners

(2) in case of a fishing vessel flying a foreign flag, such vessel shall not change her foreign flag unless the Registrar of Ships has consulted the Director on the same.

21. If the Director has reason to believe that, any fishing vessel is of mechanical or physical dimensions, which are contrary to regulations made under this Act, he shall seek opinion from the Registrar of Ships or any other institutions with similar functions.

Certificate of Registry

22.-(1) No person shall engage in-

- (a) fishing;
- (b) collecting, gathering, processing or manufacturing fish products or products of aquatic flora;
- (c) selling or marketing of fish, fish products, aquatic flora or products of aquatic flora;
- (d) importing or exporting of fish, fish products, aquatic flora or products of aquatic flora,

Prohibition of certain activities without licence

unless he applies for and is granted by the Director or any other authorized officer a licence in respect of such activity.

(2) Notwithstanding the provisions of subsection (1), no licence or permit or permission shall be required for fishing by means of any of the following methods:

- (a) fishing for prawns using cloth - KUTANDA UDUVI;
- (b) using rod and line or hand line from the beach without using a fishing vessel whether for sport fishing, domestic consumption or sale, except in a declared trout stream or spawning ground; and
- (c) small cast nets

(3) For the purposes of this section, licences for internal fish trade shall be issued by the relevant authorities in charge of internal trade.

(4) The Minister may by a notice published in a Gazette, restrict fish establishment owners from carrying out fishing in specified water bodies.

(5) The Minister may, upon the recommendations of the Director, by order in the Gazette, restrict or prohibit fishing of any fish species or any kind of fish or dealing in fish products, aquatic flora or products of aquatic flora.

Conserva-
tion of
fisheries
resources

23.-(1) The Minister shall, after consultation with such competent persons within the public and private sectors knowledgeable on environment issues, by order in the Gazette, declare the conservation of any critical habitat or endangered species.

(2) Any order referred to in subsection (1), may contain such exceptions and exemptions from its provisions in respect of such persons and such area as the Minister may provide in such order.

(3) If any critical habitat or endangered species referred to in any order made under subsection (1) ceases to be critical habitat or endangered species, the provisions of any such order shall cease to apply.

(4) Subject to any exception or exemption provided for in any order, no person may, without licence or lawful authority, fish, take or offer for sale any fishery product from any conserved area.

PART VI

FISH QUALITY, MANAGEMENT AND STANDARDS

Conditions
for quality
manage-
ment

24. The Minister shall by notice published in the *Gazette*, impose conditions that are necessary for ensuring the right of consumers to safe, wholesome and unadulterated fish and fishery products by-

- (a) prescribing specifications for fish processing establishments, cold rooms, ice plants, fish transportation vehicles, boats and landing stations;
- (b) prescribing conditions under which dealers of fish and fishery products shall abide to;
- (c) requiring management of fish processing establishments to prepare and implement quality management programmes and own checks;
- (d) monitoring quality management programmes and application of Hazard Analysis and Critical Control Point (HACCP);
- (e) performing microbiological and chemical and physical analyses to fish and fishery products before they are released for human consumption;
- (f) certifying on the quality of fish and fishery products through issuance of a sanitary certificate before they are placed on the market;
- (g) prohibiting the sale of certain types of fish and fishery products;
- (h) establishing a tractability system of fish and fishery products at any stage to the source;
- (i) prescribing the manner in which fish and fishery products placed on the market shall be labeled.

25.-(1) The Director shall be the competent authority in all matters pertaining to fish and fishery products.

Competent
authority

(2) The Director shall prescribe standards for hygienic and quality placement in a market, set and adopt minimum standards for safety and quality assurance and ensure that the standards are applied throughout the fishing industry.

(3) The Director shall specify hygienic conditions for-

- (a) fish and fishery products parasites;
- (b) staff working in fish processing establishments;
- (c) thawing fishery products;
- (d) freezing of products;
- (e) fresh products;
- (f) processed products including smoked, salted, dried fish and other fishery products.

Prevention
of comer-
cial fraud

26. The Director shall establish and maintain effective systems to detect and prevent commercial fraud by requiring every batch and fish or fishery products placed on the market to have a sanitary mark showing-

- (a) common name and scientific name of fish specie;
- (b) grade;
- (c) exact weight;
- (d) name, postal and physical address of processor;
- (e) date and place of manufacture;
- (f) the expiry date; and
- (g) origin of the product.

Fish
marketing

27. The Director shall in collaboration with other relevant government agencies and the private sector ensure hygienic fish marketing and distribution.

PART VII

FINANCIAL PROVISIONS

Power to
Charge
fees

28.-(1) The Minister shall by notice published in the *Gazette*, prescribe fees for fishing vessel registration various licences, services, permits and export royalties.

(2) In determining the levels of export royalty for a particular fish and fishery product, regard shall be paid to-

- (a) the weight of the products; and
- (b) such other factors as may be prescribed.

(3) The Minister may by notice published in the *Gazette*, exempt certain fish and fishery products from being charged export royalty.

Fisheries
Develop-
ment Fund

29.-(1) There is hereby established in the office of the Director, a fund that shall be known as the Fisheries Development Fund.

(2) The Fund and resources of the Fund shall consist of-

- (a) any such sum as may be appropriated by the Parliament;

- (b) any sum or property which may in any manner become payable into the Fund;
- (c) any income generated by any project financed by the Fund, due allowance being made for any necessary expenses which must be met by any such project;
- (d) grants, donations, bequests or such sum contributed by any private individuals, corporate bodies, foundations and international organizations, within or outside the country;
- (e) any such funds legally acquired from various sources.

(3) There shall be a Committee of Fisheries Development Fund appointed by the Minister, which shall be responsible for the management of the Fund.

30. The objects and purposes of the Fund are to-

Purpose of
the Fund

- (a) promote awareness of the importance of protection development and sustainable use of fisheries resources through public education and training;
- (b) promote and assist in the development of community management units by giving grants and assisting groups of persons wishing to form fisheries conservation and protection groups;
- (c) promote and develop research in fisheries;
- (d) enable Mainland Tanzania to benefit from international initiatives and international funds directed towards conservation and protection of biological diversity and promotion of sustainable development of fishery resources;
- (e) assist group of persons and individuals to participate in any public debates and discussions on fisheries such as the making of environmental impact assessment;
- (f) assist groups of persons and individuals to ensure compliance with this Act;
- (g) support fisheries protection activities;
- (h) promote fishery products in the external market, compliance with international standards and improvement of quality for local market;

- (i) enable Mainland Tanzania to pay her membership fee and various contributions to relevant international fisheries organizations;
- (j) promote aquaculture activities and restocking of natural water bodies;
- (k) facilitate fisheries data collection; and
- (l) promote such other activities of a like nature to those set out in this section as will advance the purposes of this Act.

PART VIII
ENFORCEMENT

Survei-
llance unit

31.-(1) The Minister shall, after consultation with the Minister responsible for Home Affairs, establish a Surveillance Unit.

(2) The Unit shall consist of such number of persons as the Minister may determine based on advise of the Director.

Function
of the Unit

32.-(1) The function of the Unit shall be the protection of fish and its environment, fishery products and aquatic flora against unlawful dealers and generally the enforcement of the provisions of this Act.

(2) The Minister may, after consultation with the Minister responsible for Home Affairs and Minister responsible for Defence, by regulations published in the *Gazette*, provide for-

- (a) the organization and deployment of the Unit, the conditions and terms of service and the various grades, ranks and appointments of officers;
- (b) the duties to be performed by members of the Unit, and their guidance in the discharged of those duties;
- (c) the regulation of matters relating to discipline in the Unit;
- (d) the description and issue of arms, ammunition accouterments, uniforms and other necessary supplies to members of the Unit;
- (e) matters relating generally to the good order and administration of the Unit.

Powers of
the Unit

33. The officers of the Unit shall have powers to -

- (a) cause the master, skipper or boatman of a fishing vessel or any other suspicious vessel to stop;
- (b) require the master, skipper or boatman to stop fishing and take fishing gear of a fishing vessel back on board;
- (c) require the master, skipper or boatman to facilitate the boarding of a fishing vessel by all appropriate means;
- (d) go on board a fishing vessel or any other suspicious vessel and exercise powers of an authorized officer;
- (e) require the master, skipper or crew to produce any certificate of registration, record of fish caught and other documents relating to the fishing vessel or any person on board as appropriate;
- (f) examine and take copies of any document mentioned in paragraph (e);
- (g) require the master, skipper or boatman to give any explanation concerning the vessel fish, fishing gear, equipment and crew or any person on board the fishing vessel and any documents mentioned in paragraph (e); and
- (h) require a fishing vessel to come to port or to a landing station.

34. For the purpose of enforcing the provisions of this Act and any subsidiary legislation made under this Act, an authorized officer may, subject to the direction of the Director of Public Prosecutions, conduct any prosecution for any offence under this Act or regulations made under this Act and shall for that purpose have all the powers conferred upon a Public Prosecutor by the Criminal Procedure Act.

Power to prosecute
Act No. 9
of 1985

35.-(1) An authorized officer shall record "certificate of evidence" describing the scene and other particulars of the crimes as evidence.

Certificate
of
evidence

(2) Use of computer or electronic or stored information may be produced as evidence in a court of law.

36. An authorized officer may with or without warrant as it may be appropriate-

Power of
search and
seizure

- (a) board and search any vessel, vehicle or any part thereof,
- (b) enter any premise, building or any other place;
- (c) seize, remove and retain any fish, aquatic flora, fish products, product of aquatic flora, fishing gear or any other

article or thing, whether found on board any vessel or vehicle or in any building, place or premises and in respect of which appears to him that an offence under this Act or any subsidiary legislation made under this Act has been committed, or which appears to him to constitute evidence of any such offence having been committed;

- (d) arrest any person whom he, reasonable suspects of having committed an offence under this Act or any subsidiary legislation made under this Act or of being about to commit any such offence.

Seizure of things used for commission of offence

37. Whatever it is lawful under this Act for the Director or an authorized officer or a police officer to seize and retain any fish, fish product, aquatic flora or product of aquatic flora or other article or thing, it shall be lawful-

- (a) to seize and retain -

(i) any receptacle other than a vessel or vehicle, in which such fish product, aquatic flora, product of aquatic flora or other article or thing is committed;

(ii) any machinery including propellant machinery of a vessel or vehicle, implement, utensil, material or substance used for the commission of any offence under this Act or under any subsidiary legislation made hereunder;

(iii) any book of account or other document which appears to him to contain evidence that an offence has been or is about to be committed under this Act or any subsidiary legislation made hereunder;

- (b) to direct any vessel or vehicle in which any fish, fish product, aquatic flora or product of aquatic flora or other article or thing is seized in accordance with the provisions of section 40 or of paragraph (a) of this section, to proceed to such port or place in the country as may be convenient for unloading from the vessel or vehicle such fish, fish product, aquatic flora or product of aquatic flora or other article or thing seized thereon, and may then detain the vessel or vehicle for such time as may reasonably be required to effect the unloading;

- (c) all things seized shall be recorded in the seizure from filed in triplicate, the first copy of which shall be served upon the suspect and the second copy to be produced in court as evidence and the third copy shall be filed for office reference.

38.-(1) Where a Magistrate is satisfied that an offence under this Act or subsidiary legislation made under this Act has been committed in respect of any fish, fish product, aquatic flora, or any other article or thing seized under the provisions of sections 36 or this section, whether or not any person has been convicted in respect of such offence, the Magistrate may order such fish, fish product or aquatic flora, product of aquatic flora or any other article or thing, to be forfeited to the Government.

Forfeiture
of things
used for
commi-
ssion of
offence

(2) Notwithstanding anything contained in subsection (1), where any fish, fish product, aquatic flora or product of aquatic flora is seized under section 36 of this Act, the authorized officer may, if he is satisfied that the fish, fish product, aquatic flora or product of aquatic flora is of a product, aquatic flora or product of aquatic flora is of a perishable nature, cause the same to be sold or otherwise disposed of prior to application being made for its forfeiture under subsection (1).

(3) Where any fish, fish product, aquatic flora or product of aquatic flora is sold pursuant to the provisions of sub-section (2), an application for the disposal of the proceeds of the sale shall be made to a Magistrate, and upon such application being made, if the Magistrate is satisfied that-

- (a) an offence has been committed in respect of the article to which the proceeds related, whether or not any person has been convicted of the Fisheries Development Fund or;
- (b) no such offence has been committed in respect of the article to which the proceeds relates, whether or not any person has been convicted of the offence, he may order the proceeds to be paid to the offender, he shall, upon the application made by any person claiming to be the owner of such article or thing and upon being satisfied as to the validity of the claim-
- (i) order such proceeds to be paid the claimant; or
- (ii) if no claim is made or the Magistrate is not satisfied as to the validity of the claim, order the proceeds to be paid into the Fisheries Development Fund.

Forfeiture
upon
conviction

39.-(1) Where, upon conviction for an offence under this Act or any subsidiary legislation made under this Act, the court is satisfied that any vessel or vehicle was used in the commission of the offence, the court may order such vessel or vehicle to be forfeited to the Government.

(2) No order made under subsection (1) shall be made if the owner of such vessel or vehicle satisfied the court that the vessel or vehicle was used without his knowledge or consent.

Power to
compound
offences

40.-(1) The Director or any authorized officer may, if he is satisfied that a person has committed any of the offence listed in the Schedule to this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section-

(a) compound the offence by accepting a sum of money not exceeding one hundred thousand shillings;

(b) order the release of any vessel or any other thing, seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or if the value of such a thing is small, such person be liable to pay a fine of not less than ten thousand shillings, provided that, any gear shall not be released.

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

(3) Where any person is aggrieved by an order made under subsection (3), he may within thirty days of such order being made, appeal against such order to the High Court and the provision of the Criminal Procedure Act in relation to appeals shall apply mutatis mutandis to every such appeal as if it were an appeal against sentence passed by a District Court in exercise of its own original jurisdiction.

(4) Any authorized officer who compounds an offence shall submit to the Director a list of compounded offences.

(5) The Director shall, at every three months and in such form as, the Director of Public Prosecutions may direct, submit to the Director of Public Prosecutions a return of all compounded offences.

(6) This section shall apply to any offence under this Act, or under any regulation made under this Act other than an offence which a minimum sentence of fine or imprisonment is prescribed.

PART IX

OFFENCES AND PENALTIES

41. Any person, who willfully obstructs, hinders assaults or resists the Director, an authorized officer or a police officer in the exercise of his powers under this Act or under any subsidiary legislation made under this Act, commits an offence and upon conviction is liable to imprisonment for a term not exceeding six years.

Obstruction of officers

42. No matter or thing done by the Director or any other authorized officer exercising or purporting to exercise any function under this Act or under any subsidiary legislation made hereunder shall, if *bonafide* in executing or purported execution of his functions under any of the provisions of this Act or such subsidiary legislation, subject any such person as aforesaid to any action, liability, claim or demand whatsoever.

Indemnity

43.(1) Any person, who uses explosives to kill fish or, destroys aquatic flora, commits an offence and upon conviction shall be liable to imprisonment for a term of not less than five years and not exceeding ten years.

Penalty for possessing or using explosives

(2) If any person, without lawful excuse the burden of proof which shall be on him is found in possession of explosive within or in the vicinity of any water body, shall be guilty of an offence against this Act, and upon conviction shall be liable to imprisonment for a term of not less than one year and not exceeding five years.

44. Any person, found in possession of poison within the vicinity of any water body containing fish, commits an offence and upon conviction shall be liable to imprisonment for a term of not less than seven years.

Penalty for using poison

45.-(1) Any person, who uses a foreign fishing vessel in territorial water without a valid license or permit, commits an offence and upon conviction shall be liable to a fine of not less than four hundred thousand United States dollars or imprisonment for a term of not less than five years.

Penalty for using foreign fishing vessel without licence

(2) In addition to a penalty imposed in connection with an offence committed under subsection (1), the court shall order forfeiture of vessel and fishing gear to the Government.

Penalty for violating fish quality standards

46. Any person, who does not comply with the fish quality and standards regulations made under this Act, commits an offence and upon conviction shall be liable to-

- (a) for supplies of fish establishment for export market, to a fine of not less than one million shillings or imprisonment for a term of not less than one year, for first offence and for subsequent offence a fine of not less than three million shillings or imprisonment for a term of not less than three years;
- (b) for internal market, to a fine of not less than fifty thousand shillings for first offence or imprisonment for a term of not less than one month and for subsequent offence to a fine of not less than one hundred thousand shillings and not more than three hundred thousand shillings or imprisonment for a term not less than three years;
- (c) for an exporter, in case of a first offence, to a fine of not less than five million shillings and not exceeding ten million shillings or to imprisonment for a term of not less than one year and not exceeding three years for subsequent offences, to a fine of not less than fifteen million shillings and not exceeding thirty million shillings or imprisonment for a term of not less than three years and not exceeding five years; in addition, the court shall order revocation of export licence or imprisonment for a term of not less than one year or more than two years.

Penalty for other offences

47. Any person, who contravenes the provisions of this Act other than those with specified penalties, upon conviction shall be liable to a fine of not less than one hundred thousand shillings and not more than one million shillings or to imprisonment for a term of not less than two years and not more than five years or to both such fine and imprisonment.

Abandoned vessel, gear, fish or fish products

48.-(1) Where an authorized officer has reason to believe that, any fishing gear, vessel, fish or fish product has been abandoned for the purpose of avoiding prosecution, he shall apply to court for an order to dispose of the gear vessel, fish or fishery product.

(2) Where a fishing vessel or fishing gear or fishery product is abandoned, and the authorized officer believes that any person is liable to be investigated, searched or arrested in connection with a commission of an offence under the Act, or that, that person has absconded to any place within or outside the United Republic, or has concealed himself so that he cannot be searched, arrested or otherwise investigated, the authorized officer may cause investigation measures to be taken in relation to the area or premises and property previously in possession, occupation or under control of the suspect.

(3) Where upon completion of measures taken pursuant to subsection (1), it is found that an offence has been committed, the authorized officer shall, by notice published in the *Gazette*, notify the public his intention to apply to a court of law for an order in relation to the property or goods involved in the commission of a crime.

(4) Upon expiry of twenty one days from the date of publication of notice under subsection (3), the authorized officer may make an application in accordance with subsection (3).

(5) Upon receipt of an application made pursuant to subsection (2), the court shall make such an order as it shall deem proper or just.

49. The Director may authorize the payment of rewards to persons giving genuine and authentic information regarding offences leading to conviction of an offender and may regulate the amount and payment of such rewards.

Reward

50. Any authorized officer shall have the duty to protect any person who gives useful information as provided for under section 49.

Protection
of
informers

PART X

GENERAL PROVISIONS

51.-(1) All biological resources and their intangible products whether naturally occurring or naturalized within fisheries including genetic resources belonging to the Government in accordance with Article 27 of the Constitution, shall be conserved and utilized for the people of this country in accordance with the provisions of this Act and any other written law on biological resources.

Soverei-
gnty over
biological
resources

(2) The transfer of any biological resources, their derivative products intangible components from fisheries shall not operate so as to extinguish the sovereignty of Tanzania over those resources.

(3) Notwithstanding the provisions of subsection (2), the Director in collaboration with agencies responsible for scientific research, keep record on performance of all genetic resource exported outside the country.

(4) Without prejudice to the provisions of subsection (1), the right to determine and regulate access to genetic resources is vested in the Government and may be exercised by the competent authority in consultation with relevant organizations in accordance with the provisions of this Act or any other written law on biological resources.

Environ-
mental
impact
Assess-
ment

52. No person shall undertake any development activities in this Act, without undertaking Environmental Impact Assessment in accordance with any other written laws of Tanzania.

Research
priority
areas and
facilitation

53.-(1) The Director shall in collaboration with research institutions and other stakeholders outline areas that require research.

(2) Any person intending to undertake any research in fisheries prior to obtaining any permit or obtained from any other person(s) or organization shall be required to obtain a research clearance from the Director.

(3) An application for a research permit to which this section applies, shall be accompanied by a copy of the research proposal and include-

- (a) the name, qualifications and designation of the person applying for the clearance;
- (b) the names, qualifications and designation of any person whom it is proposed will assist or work with the person applying for the clearance;
- (c) the name, function and address of the institution or organization, if any, with which the person applying for the clearance is connected, either directly or indirectly and if a different institution or organization is funding in whole or in part the research, the name, address and function of that funding institution or organization;

- (d) the purpose of the research and the use of which it shall be put, including any proposal for the publication of the results of the research and any proposed commercial exploitation of the research, and
- (e) any such other matters as may be prescribed.

(4) In determining whether to grant or refuse to grant a research clearance, the Director shall have regard to -

- (a) any general policies concerning research adopted by any national bodies charged with a duty to promote and regulate research;
- (b) the extent to which the proposed research is likely to contribute to the furtherance of the objectives of fisheries asset out in Part III of this Act;
- (c) the proposal or lack of them that the research plan contains for providing feedback from the research and disseminating the results of the research within the country;
- (d) the extent to which the research plan complies with any international agreements relating to research on fisheries of the nature proposed in the application;
- (e) such other matters as appear to be relevant or as may be prescribed.

(5) In granting a research clearance, the Director may attach such conditions to the clearance as are calculated to ensure that the matters referred to in subsection (3) are observed and furthered by the research and in particular such conditions may regulate and control the manner in which any specimen of flora or fauna are taken from a fisheries reserve or are exported from Tanzania in the course of or at the conclusion of the permitted research.

(6) Any person, who has been granted a research clearance shall, at his own expense deposit one copy of any publication of any sort with any research section, whether produced by the person granted the research permit alone or as a joint author with other persons during the course of the research in each such library in the country as shall be specified in the research permit or as may be prescribed.

(7) Where the Director is satisfied after due inquiry or as a result of information given to him by a reliable source that any research is being conducted otherwise than in accordance with the terms of a research clearance, he shall forthwith withdraw the said research permit and issue a direction in writing to the person to whom the research clearance was granted to cease all activities connected with or arising out of the research.

(8) A person from whom a research clearance has been withdrawn under subsection (6), may appeal to the Minister.

Call for
research
informa-
tion

54. The Director may call for any research information obtained to be disseminated to the public.

Call for
informa-
tion from
licensee

55. The Director may for the purpose connected with the implementation of this Act, by notice sent in writing, or delivered by registered post, require any person holding a license under this Act to send or deliver to the Director within thirty days from the date on which the notice was sent or delivered, such documents and information that is required.

Exempti-
ons

56. Notwithstanding anything contained in this Act, the Minister may grant an exemption to any person or organization from all or any of the provisions of this Act or of any subsidiary legislation not inconsistent with the provisions of this Act in order to entitle the holder to engage in fishing and to do such other things as may be specified in the order for any of the following purposes:-

- (a) scientific research and display museums, zoo or similar establishments;
- (b) educational and cultural activities;
- (c) supply of good in case of emergency where no other adequate food supply is available; and
- (d) compliment.

Regulati-
ons

57.-(1) The Minister may make regulations for the better carrying out of the objects and purposes of this Act and may by such regulations, make provisions which, in his opinion, are necessary or expedient for the purpose of protecting, conserving, developing, regulating or controlling the capture, collection, gathering, processing, storage or marketing of fish, fish products, aquatic flora or products of aquatic flora.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations -

- (a) providing for the issuance, suspension and cancellation of licences or authorities granted or given under this Act or any subsidiary legislation made under this Act;
- (b) prescribing the terms and conditions upon which any such licence or authority may be granted or issued;
- (c) prescribing the forms of application for licences and responsible authorities;
- (d) prescribing fees for licences and authorities;
- (e) requiring all or any category of fishing vessels to be registered;
- (f) providing for and regulating the description, specifications and form of nets to be used in fishing and the size of the meshes;
- (g) prohibiting or regulating the use of any description of fishing gear;
- (h) prohibiting, restricting or regulating the importation into Mainland Tanzania any live fish, other than fish indigenous to Mainland Tanzania;
- (i) prohibiting or regulating the exportation of fish, aquatic flora or any fish product or product of aquatic flora;
- (j) prohibiting or restricting the use of explosives for the purpose of fishing;
- (k) prohibiting or restricting the use of any poisonous chemical or toxic substance for the purpose of fishing;
- (l) prohibiting or restricting the capturing, collection, removal or destruction of any variety of fish, aquatic flora, product or product of aquatic flora;

- (m) providing for the protection of critical habitats;
- (n) preventing the obstruction and pollution of territorial waters;
- (o) controlling the import and export of fish, aquatic flora, fish products or products of aquatic flora;
- (p) determining and imposing closed periods;
- (q) limiting or controlling the number and size of fishing vessels;
- (r) regulating the marketing of fish, aquatic flora, fishery products or products of aquatic flora;
- (s) prohibiting, regulating or controlling the activities of foreign fishing vessels within territorial waters;
- (t) regulating the processing of fish, fish products or aquatic flora or products of aquatic flora;
- (u) prescribing conditions under which every processor of fish, fish products or products of aquatic flora shall comply;
- (v) prescribing specifications to which any factory building or other premises used for the purpose of fish processing, storage or sale of any fish, fish product, aquatic flora or product of aquatic flora shall conform;
- (w) controlling and regulating importation, manufacturing and construction of fishing gears;
- (x) regulating the structure, functions and powers of authorized associations;
- (y) regulating the remunerations and fringe benefits for the Unit;
- (z) providing for and regulating the conditions under which industrial fishing shall be undertaken;
- (aa) providing for and regulating the manner in which aquaculture shall be undertaken;

- (bb) providing for the issuance of identification cards and conditions under which they shall be used;
- (cc) providing for protection of biodiversity of aquatic habitats, ecosystems and endangered species;
- (dd) regulating artisanal fisheries;
- (ee) providing for the restoration and recovery of depleted stocks;
- (ff) providing for and regulating the manner in which genetic resources shall be managed;
- (gg) providing for marking of fishing gears;
- (hh) providing for recovery of lost and abandoned fishing gears;
- (ii) regulating the use of fish aggregating devices; and
- (jj) providing for data collection and reporting.

58. Where any provision of any by-law made by a local authority is inconsistent with any provision of this Act or any subsidiary legislation made under this Act, the provision of this Act or, as the case may be, of the subsidiary legislation, shall be construed so as to revoke, to the extent of the inconsistency, the provision of such by-law.

Act to prevail over by-laws

59.-(1) The Fisheries Act, 1970 is hereby repealed.

Repeals, Act No. 6 of 1970

- (2) Notwithstanding the repeal of the Act-
 - (a) all licences and permits granted under the provisions of the Fisheries Act, shall be deemed to have been made under this Fisheries Act;
 - (b) all regulations made under the Fisheries Act, shall be deemed to have been made under this Act and shall remain in force and have effect until repealed, replaced or amended under and in accordance with the provisions of this Act;

- (c) all lawful orders, notices, by laws or anything given or made by an authorized officer so authorized to give or make such lawful orders, notices and by-laws under the Fisheries Act, shall be deemed to have been made under this Act, and shall remain in force and effective until amended or withdrawn under this Act.

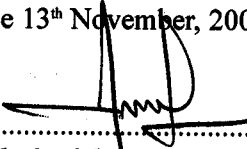
SCHEDULE

(Made under section 40(1))

LIST OF OFFENCES THAT MAY BE COMPOUNDED

1. Artisanal fishers fishing without licence.
2. Collecting fish or fishery products without valid licence.
3. Artisanal fishers fishing using unregistered vessel.
4. Permitting others to use unregistered vessel for fishing.
5. Possession of sea shells, shell products, aquarium fish for trade or for public display and commercial purposes without valid document.

Passed in the National Assembly on the 13th November, 2003.


.....
Clerk of the National Assembly