

ARRANGEMENT OF SECTIONS

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THE SIX HUNDRED AND TWENTY-FIFTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA

ENTITLED

THE FISHERIES ACT, 2002

AN ACT to consolidate with amendments the law on fisheries; to provide for the regulation and management of fisheries; to provide for the development of the fishing industry and the sustainable exploitation of fishery resources and to provide for connected matters.

DATE OF ASSENT: *16th January, 2002.*

BE IT ENACTED by Parliament as follows:

PART I—FISHERIES COMMISSION

Establishment of Fisheries Commission

1. (1) There is established by this Act a Fisheries Commission.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission shall have power for the discharge of its functions to acquire and hold any movable or immovable property and to dispose of such property and to enter into any contract or other transaction.
- (4) Where there is any hinderance to the acquisition of any property under subsection (3), the property may be acquired for the Commission under the State Property and Contract Act, 1960 (C.A.6) or the State Lands Act, 1962 (Act 125).

Object and functions of the Commission

2. (1) The object of the Commission is to regulate and manage the utilization of the fishery resources of Ghana and co-ordinate the policies in relation to them.

(2) Without prejudice to the general effect of subsection (1), the Commission shall in relation to fisheries perform the following functions:

- (a) prepare and keep under continual review plans for the management and development of fisheries in waters under the jurisdiction of Ghana;
- (b) establish priorities for the utilization of fishery resources which will provide the greatest benefits to the country;
- (c) ensure the proper conservation of the fishery resources through the prevention of overfishing;
- (d) strive to minimise, as far as practicable, fishery gear conflict among users;
- (e) ensure the monitoring, control and surveillance of the fishery waters;
- (f) promote subregional, regional and international co-operation in fisheries management;
- (g) promote co-operation among local fishermen and advance development of artisanal fishing;
- (h) carry out research and survey work for the assessment of stock of the fisheries resources;
- (i) correlate fisheries with other water uses and environmental protection particularly with respect to the fish resources and food chain in the rivers, lagoons, lakes and the continental shelf along the coast of the country;
- (j) standardise fish quality, weight and the basis for fish pricing in consultation with any other agency that has responsibility for fish quality standards;
- (k) make recommendations to the Minister on grant of licences for fishing;
- (l) in consultation with the Minister, control and co-ordinate the importation of fresh and frozen fish;
- (m) in collaboration with the competent authority, establish requirement for manning fishing vessels and boats, safety for crew and vessels and for fishing gears in use to avoid damage by other vessels;
- (n) hear and determine complaints from persons aggrieved in respect of matters arising from or related to fishing activities and the fishing industry generally;
- (o) in collaboration with District Assemblies with fishing communities, ensure the enforcement of the fishery laws including bye-laws made by the relevant District Assemblies; and
- (p) perform any other function conferred on it under this Act or any other enactment.

Ministerial responsibility and directions of the Minister

3. (1) The Minister responsible for fishery has ministerial responsibility for the Commission.

(2) The Minister may give general directions in writing on matters of policy and the Commission shall comply with the directions.

Composition of the Commission

4. (1) The Commission shall be composed of the following members:

- (a) a chairperson;
- (b) one representative of the Ministry responsible for Transport;
- (c) one representative of the Ministry responsible for Defence;
- (d) one representative of the Ministry responsible for Environment;
- (e) one representative of the Ghana Marine Fishing Officers Association;
- (f) one representative of the Water Research Institute;
- (g) one representative of the Ghana Irrigation Development Authority;
- (h) two representatives of the National Fisheries Association of Ghana—
one representing artisanal fishermen and the other representing industrial fishing vessel owners;
- (i) one other person with requisite knowledge of the fishing industry or natural resource renewal management; and
- (j) the Director of the Commission.

(2) The representatives specified in subsection (1) shall be nominated by the bodies concerned and shall be persons not below the rank of a Deputy Director in the Civil Service and in the case of a functional group in the private sector, not below the rank of a vice-chairman or its equivalent.

Appointment of members of the Commission

5. (1) The chairperson and the other members of the Commission shall be appointed by the President in consultation with the Council of State.

(2) A member of the Commission other than the Director shall hold office for four years and may on the expiration of that period be reappointed.

(3) A member nominated by a body as its representative on the Commission shall cease to be a member on the recommendation of the body or if that member ceases to be a member of the body concerned or where the President for stated reasons revokes the appointment of the member by letter addressed to that member.

(4) A member of the Commission other than a member who is a member by virtue of the office held may at any time resign from the Commission in writing addressed to the President through the Minister.

(5) The chairperson of the Commission shall notify the President through the Minister of vacancies that occur in the membership of the Commission.

(6) When the chairperson or other member of the Commission is prevented by illness or any other cause from performing the functions of that member's office, the President may acting in consultation with the appropriate body appoint another person to perform the functions of the member until the member is able to resume the performance of the duties of the member or the term of the member expires.

Meetings of Commission

6. (1) The Commission shall meet for the despatch of business at times and places determined by the members but shall meet at least once in every two months.

(2) The chairperson shall summon a special meeting of the Commission within fourteen days of the receipt of a written request signed by not less than five members of the Commission.

(3) The quorum at a meeting of the Commission shall be not less than seven members.

(4) A member who is absent without reasonable excuse from three consecutive meetings of the Commission shall cease to be a member.

(5) The chairperson shall preside at meetings of the Commission but in the absence of the chairperson a member of the Commission elected by the members present from among their number shall preside.

(6) The validity of the proceedings of the Commission shall not be affected by a vacancy in its membership or by any defect in the appointment or qualification of a member.

(7) Questions before the Commission shall be decided by a majority of the members present and voting.

(8) The chairperson or the person presiding at a meeting of the Commission shall have an original as well as a casting vote.

(9) Except as otherwise provided in this section, the Commission shall regulate procedure at its meetings.

Power to co-opt

7. The Commission may co-opt any person as an adviser at its meetings but no co-opted person is entitled to vote at a meeting.

Disclosure of interest

8. (1) A member of the Commission or a committee of the Commission who has a personal interest, directly or indirectly in any matter being considered or dealt with by the Commission or committee shall disclose verbally or in writing the nature of the interest at a meeting of the Commission or committee and shall not take part in any deliberation or decision of the Commission or committee with respect to the matter.

(2) A member who fails to disclose an interest under subsection (1) shall be removed from the Commission or committee.

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(3) A removal under subsection (2) shall be without prejudice to any other action that may be taken against the member if by the non-disclosure the member has gained any benefit.

Committees of the Commission

9. (1) The Commission may appoint committees it considers necessary for the effective implementation of its functions.

(2) A Committee appointed under subsection (1) may consist of members of the Commission or members and non-members.

Fisheries Settlement Committee

10. (1) Without limiting the scope of section 9, there shall be appointed by the Commission from among its members a Fisheries Settlement Committee composed of not less than three nor more than five members to hear and settle complaints from persons aggrieved in respect of matters arising from or related to the fishing industry.

(2) Subsection (1) is without prejudice to any right of action to the courts.

(3) The Fisheries Settlement Committee may co-opt any specialist to assist it in the settlement of any issue before it.

(4) The Fisheries Settlement Committee shall regulate its own procedures and shall in its deliberations act with fairness and in accordance with natural justice.

Fishery licence evaluation committees

11. (1) The Commission may for the purpose of evaluating any category of application for fishery licences appoint such fishery licence evaluation committee as it considers necessary.

(2) A committee appointed under subsection (1) shall be composed of such technical officers of the Commission as the Commission shall determine.

(3) The functions of a committee appointed under subsection (1) are to evaluate applications for fishery licences referred to it and to make its recommendations on the applications to the Commission within fourteen days as specified in section 70(2).

Allowances for members of Commission

12. The chairperson, other members of the Commission and members of committees of the Commission shall be paid such allowances as the Minister in consultation with the Minister responsible for Finance may determine.

Relationship of Commission with other authorities

13. In the discharge of its functions under this Act, the Commission shall, co-operate fully with all government departments and agencies and other public authorities.

PART II—ADMINISTRATION

Secretariat of the Commission

14. There shall be a secretariat of the Commission consisting of such public officers as the Commission shall determine.

Divisions of the Commission

15. (1) The Commission may establish such divisions in the secretariat of the Commission as the Commission considers necessary for the effective achievement of the object and functions of the Commission.

(2) Without limiting the scope of subsection (1) and subject to the power of the Commission to re-organise the divisions as it considers appropriate, the following are hereby established as Divisions of the Commission:

- (a) Marine Fisheries Division;
- (b) Inland Fisheries Division;
- (c) Fisheries Scientific Survey Division;
- (d) Monitoring, Control and Surveillance Division; and
- (e) Finance and Administration Division.

(3) The functions and numerical staff strength of each Division of the Commission shall be determined by the Commission and the head of each Division shall answer to the Director in the performance of the duties of the office.

(4) The Divisions of the Commission may be located in such places as the Commission may determine.

(5) The Commission may delegate its functions under this section to the Director.

Other Units in the Commission

16. There shall be established by the Commission the following as Units of the Commission which shall constitute a part of the secretariat of the Director:

- (a) Planning and Evaluation Unit;
- (b) Legal Unit;
- (c) Internal Audit Unit;
- (d) Information Management Unit; and
- (e) such other units as the Commission may determine.

Director

17. (1) There shall be appointed for the Commission a Director of Fisheries who shall be the head of the secretariat of the Commission.

(2) The Director shall be appointed by the President in accordance with the advice of the Commission given in consultation with the Public Services Commission and shall hold office for such period and upon such other terms and conditions as shall be specified in the letter of appointment of the Director.

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Functions of the Director

18. (1) The Director shall subject to policy directives of the Commission, be responsible for

- (a) ensuring the efficient and effective implementation of the functions of the Commission and the directives of the Commission;
- (b) the day-to-day management and administration of the Units of the Commission;
- (c) the supervision of the Divisions of the Commission; and
- (d) such matters as the Commission may determine.

Duties of the Divisions of the Commission

19. (1) For the purpose of determining the duties and functions of the Divisions of the Commission, the Director shall draw up for consideration and approval by the Commission a service charter which shall set out the duties and responsibilities of each Division under the Commission.

(2) The service charter may be revised by the Commission.

(3) Each Division shall have as its head a Deputy Director.

Delegation by Director

20. The Director may delegate any function to a Deputy Director or any other officer of the Commission subject to any condition that the Director may impose but the Director shall not be relieved from ultimate responsibility for the discharge of the delegated function.

Secretary to the Commission

21. (1) The Commission shall have a Secretary who shall arrange the business of the Commission and shall keep minutes of meetings of the Commission.

(2) The Secretary shall perform such other duties as the Commission or the Director may direct.

(3) The Secretary shall in the performance of the duties of a secretary be answerable to the Director.

Appointment of other employees of the Commission

22. (1) Employees of the Commission shall be appointed by the President in accordance with the advice of the Commission given in consultation with the Public Services Commission.

(2) Other public officers may be seconded or transferred to the Commission.

Delegation of power to appoint public officers

23. The President may in accordance with article 195(2) of the Constitution, delegate the power of appointment of public officers under this Part.

Money for the Commission

24. The funds to meet the expenditure of the Commission shall consist of:
- (a) money approved by Parliament for the Commission; and
 - (b) such proportion of the monies in the Fishery Development Fund as Parliament may direct as payable towards the expenditure of the Commission.

Payment into Consolidated Fund

25. Except as otherwise provided under section 24 and section 37 all monies received by the Commission in the course of performance of its functions shall be paid by the Commission into the Consolidated Fund.

Bank accounts

26. The Commission may with the approval of the Minister and the Controller and Accountant-General open and operate such bank account as it may determine.

Borrowing powers

27. Subject to the provisions on loans as contained in article 181 of the Constitution and any other enactment, the Commission may obtain loans and other credit facilities on the guarantee of the Government from such bank and other financial institutions as the Minister may approve.

Execution of contracts

28. (1) The use of the seal of the Commission shall be authenticated by two signatories, namely
- (a) the Director or in the absence of the Director another officer of the Commission authorised by the Commission to authenticate the use of the seal; and
 - (b) a member of the Commission determined by the Commission.
- (2) The Commission may under its common seal empower any person to act as its attorney to execute deeds on its behalf in any place outside Ghana and every deed signed by the attorney on behalf of the Commission under the attorney's seal shall be binding on the Commission and have the same effect as if it were issued under the common seal of the Commission.
- (3) Any instrument or contract which if executed or entered into by a person other than a body corporate would not require to be under seal, may be executed or entered into on behalf of the Commission by the Director or any member of the Commission if the person has previously been authorised by a decision of the Commission to execute or enter into that particular agreement or contract.
- (4) The provisions of this section shall be subject to section 12 of the Contracts Act, 1960 (Act 25).

Annual budget and corporate plans of Commission

29. (1) The Commission shall, not later than three months before the end of each financial year, prepare and submit to the Minister for the approval of Parliament, an annual budget in respect of the following financial year comprising estimates of expected recurrent, maintenance, development and capital expenditure of the Commission in that financial year.

(2) The budget shall be in such form as the Minister for Finance may direct.

(3) The Director shall prepare budget estimates for each financial year and shall present them to the Commission for its approval not later than five months before the end of the preceding financial year.

(4) The Director shall also prepare corporate plans for such periods as the Commission may direct.

Performance contract

30. The Director shall enter into a performance contract with the Ministry for such period and on such conditions as shall be specified in the contract.

Accounts and audit

31. (1) The Commission shall keep books of account and proper records in relation to them; the books of account and records of the Commission shall be in such form as the Auditor-General may approve.

(2) The books of account of the Commission shall be audited within three months after the end of each financial year by the Auditor-General or by an auditor appointed by the Auditor-General.

Internal auditor

32. (1) The head of the Internal Audit Unit shall be the internal auditor of the Commission.

(2) Subject to this Act the internal auditor shall in the performance of the functions of an internal auditor be answerable to the Director.

(3) As part of the internal auditor's functions under this Act, the internal auditor shall, at intervals of three months, prepare a report on the internal audit work carried out by the internal auditor during the period of three months immediately preceding the preparation of the report, and submit the report to the Director.

(4) The internal auditor shall make in each report such observations as are necessary to the conduct of the financial affairs of the Commission during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to the Minister and the Commission.

Financial year

33. The financial year of the Commission shall be the same as the financial year of the Government.

Annual report and other reports

34. (1) The Commission shall submit to the Minister as soon as practicable and in any event not more than eight months after the end of each financial year a report dealing generally with the activities and operations of the Commission during the year to which the report relates and shall include

- (a) the audited accounts of the Commission and the Auditor-General's report on the accounts;
- (b) a statement of the Commission's budget and operational plans for the next financial year; and
- (c) such other information as the Commission may consider necessary.

(2) The Minister shall within two months after the receipt of the annual report submit the report to Parliament with such statements as the Minister considers necessary.

Access to information

35. For the purposes of the attainment of its object and the performance of its functions under this Act, the Commission shall have access to information and records of any department of state which are reasonably necessary for the purposes.

PART III—FISHERIES DEVELOPMENT FUND

Establishment of Fisheries Development Fund

36. There is established by this Act a Fisheries Development Fund referred to in this Act as the "Fund".

Sources of money for the Fund

37. The monies for the Fund shall consist of:

- (a) fees for licences, permits and other authorisation for fishing issued under this Act;
- (b) damages and costs granted by the courts to the State in respect of any action under this Act or Regulations made under this Act;
- (c) sums of money received for compounded offences;
- (d) proceeds of sale of forfeited items collected, imposed or received by or under this Act;
- (e) such amount of money that Parliament may approve for payment into the Fund; and
- (f) loans and grants.

Objective of the Fund

38. The monies of the Fund shall be applied as follows:

- (a) towards the promotion and development of fisheries in the country;

- (b) to meet the liabilities of the Commission in respect of the monitoring, control and surveillance of the fishery waters;
- (c) to provide assistance to small scale fishery co-operative enterprises;
- (d) to promote research and studies of the fishing industry; and
- (e) toward such other purposes as the Commission in consultation with the Minister may determine.

Management of the Fund

39. (1) The Fund shall be managed by the Commission which shall for this purpose include the Controller and Accountant-General or the representative of the Controller and Accountant-General.

(2) All monies for the Fund shall be paid into a bank account opened for the purpose by the Commission with the approval of the Controller and Accountant-General and the Minister.

(3) The provisions of this Act on accounts, audit, financial year and the submission of annual reports under sections 31, 33 and 34, shall apply to the Fund.

Policies in relation to the Fund

40. The Commission shall for the purpose of the management of the Fund:

- (a) formulate policies to generate money for the Fund; and
- (b) determine, in consultation with the Minister, allocations to be made from the Fund.

Payments from the Fund

41. Monies issued out of the Fund shall be by cheque signed by any two of the following:

- (a) the chairperson of the Commission;
- (b) the Director; and
- (c) one other member of the Commission.

PART IV—FISHERIES MANAGEMENT AND DEVELOPMENT***Sub-Part I—Fishery Plans*****Fishery plans**

42. (1) A fishery plan prepared by the Commission for the management and development of fisheries shall

- (a) be based on the best scientific information available;
- (b) ensure the optimum utilization of the fishery resources but avoid over exploitation; and
- (c) be consistent with good management principles.

(2) A fishery plan may relate to a specific water area or specified species of fish.

(3) The Commission shall be responsible in collaboration with such state agencies as the Commission considers appropriate for the implementation of each fishery plan.

Content of fishery plan

43. Each fishery plan shall

- (a) identify the fishery resource and its characteristics, including its economic and social value and interrelationship with other species in the ecosystem;
- (b) assess the present state of exploitation of each resource and taking into account relevant biological, social, and economic factors, determine the potential average annual yields from the resource;
- (c) specify the measures to be taken to promote the development of the local fishing enterprises, both industrial and artisanal;
- (d) determine the amount of the fishery resource to be made available to licensed foreign fishing vessels;
- (e) specify the conservation measures to be enforced to protect the resources from over-exploitation;
- (f) indicate the research necessary to enhance management of the fishery resource;
- (g) specify the information and other data required to be given or reported for effective management and development of fisheries; and
- (h) take into account relevant artisanal fishing methods or principles.

Consultations and approval of fishery plan

44. (1) The Commission shall during the preparation of each fishery plan, carry out such consultations as it considers appropriate with organisations, authorities and persons affected by the fishery plan.

(2) In order to assess and recommend appropriate management, development and conservation measures for a fishery plan, the Director may reasonably require any person to furnish relevant data and information, including fishing time and effort, landing, processing, sales and related transactions.

(3) Each fishery plan or review of such a plan shall be submitted to the Minister who shall submit it to the Cabinet for approval; and the plan shall come into force at a time specified in the approval.

(4) The Minister shall publish in the *Gazette* and other mass media the effective date of implementation of an approved fishery plan.

Consultation on international fisheries management

45. (1) The Minister may and shall on the advice of the Commission consult with foreign governments and in particular with governments of states sharing the same or interrelated fish stocks, with a view to

- (a) ensuring the closest practicable harmonisation or co-operation of their respective fisheries management and development plans and regulations;
- (b) ensuring the harmonisation of systems for the collection of statistics, the carrying out of surveys and procedures for assessing the state of the fisheries resource in the region;
- (c) establishing on a bilateral, regional or subregional level reciprocal fishing rights with other states in the region, where the reciprocal fishing rights are necessary to sustain the growth of industrial and artisanal fishing;
- (d) providing, for the formulation of subregional or regional fisheries management and development plans including monitoring, control and surveillance, for the allocation of fishing effort and catch for the formation or promotion of joint fishing, among states sharing the same stocks, and for taking subregional or regional joint conservation measures;
- (e) providing for the establishment and operation of joint subregional or regional fisheries management plan.

(2) Consultations under subsection (1) may be undertaken either directly with the governments or persons concerned, or through existing appropriate regional or sub-regional organisations or international agencies.

Sub-Part II—Local industrial and Semi-industrial Fishing Vessels**Prohibition of use of local industrial or semi-industrial fishing vessel without licence**

46. (1) A person shall not use a local industrial or semi-industrial fishing vessel for fishing in the fishery waters except under a licence issued under this Act for the vessel.

(2) A person who acts contrary to subsection (1) commits an offence and is liable on summary conviction to a fine of not less than

- (a) U\$1,000 in the case of a local industrial fishing vessel; or
 - (b) 50 penalty units in the case of a local semi-industrial fishing vessel
- and the vessel or implement used in the commission of the offence shall upon conviction be forfeited to the State.

Qualification as local industrial or semi-industrial fishing vessel

47. (1) A local industrial or semi-industrial fishing vessel is a fishing vessel
- (a) owned or controlled by a citizen of Ghana, the Government or owned or controlled by a company or partnership registered by law in Ghana which has its principal place of business in Ghana and the share of which is beneficially owned wholly by the Government, a citizen, a public corporation established by law in Ghana or a combination of any of them;
 - (b) in the case of a tuna fishing vessel, where at least fifty percent of the shares in the vessel is beneficially owned or controlled by persons specified in paragraph (a); and
 - (c) registered in Ghana.
- (2) A bare boat chartered by any of the persons specified in paragraph (a) qualifies as a local industrial or semi-industrial fishing vessel.
- (3) No fishing licence shall be issued for any vessel unless,
- (a) in respect of a local industrial or semi-industrial fishing vessel required to be registered under the Merchant Shipping Act, 1963 (Act 183) the vessel has been so registered; and
 - (b) the Commission is satisfied that the vessel is seaworthy and fit for the purpose of fishing and conforms with such requirements as are applicable to the vessel under any enactment in force including requirement on navigation and safety equipment.

Application for fishing licence for local industrial and semi-industrial fishing vessel

48. (1) The provisions in Sub-Part V of this Act on application for fishing licence, conditions of licence, transfer of licences and licence fees among others shall apply to local industrial and semi-industrial fishing vessels unless otherwise provided in this Act.

(2) The Commission may delegate to such regional agriculture authority of the Ministry as it may direct in writing, the Commission's role in the process of licensing local industrial and semi-industrial fishing vessels or any other functions under this Act in respect of local industrial and semi-industrial fishing vessels.

Markings and identity of local industrial and semi-industrial fishing vessels

49. (1) The Commission shall before recommending the licensing of a local industrial or semi-industrial fishing vessel, ensure that the vessel bears identity markings consisting of letters and numbers allocated to the vessel by the competent authority.

(2) No person shall operate a local industrial or semi-industrial vessel which does not bear the identity markings.

(3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$1,000 and not more than \$10,000 in the case of a local industrial fishing vessel; or
- (b) 50 penalty units and not more than 500 penalty units in the case of a local semi-industrial fishing vessel

and in addition the catch and any fishing gear used in the commission of the offence may be forfeited to the State.

Employment of Ghanaian crew

50. (1) The owner of a local industrial or semi-industrial fishing vessel licensed under this Act shall employ a master, officers and crew of which not less than seventy-five per cent shall be Ghanaians.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$1,000 and not exceeding \$2 million.

Sub-Part III—Artisanal Fishing, Aquaculture and Recreational Fishing **Development of artisanal fishing**

51. (1) The Commission shall in the implementation of its functions under this Act take such action as it considers necessary to protect and promote artisanal and semi-industrial fishing including the following:

- (a) the provision of extension and training services;
- (b) the registration of artisanal fishing vessels and any class of related fishing gear;
- (c) the exemption for such period as it may recommend to the Minister of such fisheries activities as it may determine from any requirement concerning licensing and the payment of fees under this Act;
- (d) the promotion of the establishment and development of fishing, processing and marketing co-operative societies;
- (e) promotion of the development of artisanal fishing landing facilities;
- (f) the establishment of reserved areas for fishing activities of artisanal and semi-industrial fishing vessels;
- (g) the giving of priority to artisanal and semi-industrial fishing in the allocation of fishing licences or quotas; and
- (h) the promotion of joint venture arrangements, technology transfer agreements and transfer of technology and experience.

(2) The Commission shall not in any action taken under subsection (1) establish concessionary areas within the Inshore Exclusive Zone for activities not permitted under this Act.

Licence for canoes and qualification for licence

52. (1) A person shall not use a canoe for fishing in the fishery waters unless a licence has been issued for the canoe for the purpose of fishing.

- (2) A fishing licence shall not be issued for a canoe unless the canoe
- (a) is owned by a citizen of Ghana, a company or a partnership registered in Ghana under the relevant law in which the shares are beneficially held by a citizen;
 - (b) has been registered with the Commission through the District Assembly of the area where it is to be used; and
 - (c) bears the markings of identity allocated to it by the Commission

(3) A person who acts contrary to any provision in subsection (1) commits an offence and is liable on summary conviction to a fine of not less than 25 penalty units and not exceeding 500 penalty units and the canoe or gear used in the commission of the offence shall upon conviction be forfeited to the State.

Application and fishing licence for artisanal fishing vessel

53. (1) Any person seeking to use a canoe for fishing shall apply to the Commission in such form as the Commission may determine.

(2) The Commission may direct that an application shall be routed through the District Assembly of the locality where the applicant intends to operate the canoe.

(3) The application shall be submitted with such information as the Commission may determine.

(4) An artisanal fishing licence shall be granted without delay.

Artisanal fishing licence and renewal

54. (1) A licence for artisanal fishing shall

- (a) specify the period of validity of the licence;
- (b) indicate the activity for which the licence is issued; and
- (c) state the markings and identity of the artisanal vessel.

(2) An artisanal fishing licence may on application to the Commission be renewed.

Registration, markings and identity of artisanal fishing vessel

55. (1) An artisanal fishing vessel shall be registered by the District Assembly of the area where the vessel is to be operated.

(2) A District Assembly registering an artisanal vessel shall allocate to the vessel such letters and numbers of identification as the District Assembly shall determine.

(3) A person shall not fish with an artisanal vessel which does not bear the identification assigned to the vessel.

(4) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine of not less than 25 penalty units and not exceeding 250 penalty units and in addition, the catch, fishing gear or other apparatus used in the commission of the offence may upon conviction be forfeited to the State.

Fee for artisanal fishing licence

56. (1) There shall be paid for the issue and renewal of artisanal fishing licence such fee as the Commission shall determine.

(2) Licence fee for artisanal fishing licence shall be paid in cedis.

Transfer of artisanal fishing licence

57. (1) A licence issued under this Sub-Part for a canoe, may be transferred to another person under the following conditions:

- (a) if the canoe to which the licence is transferred is of equal dimensions and characteristics and is to be operated in the same locality as the canoe previously licensed; and
- (b) in the case of change of ownership, if the new owner and the previous owner both notify the Director of Fisheries of the transfer of ownership in writing.

(2) The Director of Fisheries or any person acting on the Director's authority shall endorse the licence to effect the transfer of the licence where the conditions specified in subsection (1) are satisfied.

(3) A person who contravenes any provision of subsection (1) commits an offence and is liable on summary conviction to a fine of not less than 25 penalty units and not exceeding 500 penalty units.

Cancellation and suspension of artisanal fishing licence

58. Where a canoe licensed under this SubPart is used in the commission of any act prohibited under this Act or in breach of any condition of the licence, the Commission may upon the conviction of the licensee recommend to the Minister to

- (a) cancel or vary the licence;
- (b) suspend the licence for such period as it may specify;
- (c) disqualify the licensee from grant of any fishing licence; or
- (d) permit continued holding of the licence subject to such further conditions as the Commission may recommend.

Further regulations of artisanal fishing

59. The Minister may on the recommendation of the Commission make such further provisions as the Minister considers necessary for regulating artisanal fishing.

Licence for aquaculture and recreational fishing

60. (1) An application for a licence for an aquaculture project or recreational fishing shall be made to the Commission and shall be accompanied with an environmental impact assessment.

(2) The application shall be in such form as determined by the Commission and shall be accompanied with such fee as the Commission shall determine.

(3) The provisions on evaluation of applications in section 70 shall apply to the processing of an application for aquaculture with such modifications as may be necessary.

(4) A licence for aquaculture shall specify the aquatic organism to be farmed.

(5) A licensed aquaculture operator shall carry out the operations in conformity with prescribed standards relating to aquatic environmental protection, quality of produce and hygienic methods.

(6) A licence for aquaculture is not transferable except with the authorisation of the Minister given on the recommendation of the Commission.

(7) The Minister may on the advice of the Commission by legislative instrument make further provisions as the Minister considers necessary for the operation of aquaculture.

(8) Recreational fishing shall be carried on in accordance with such requirements as may be prescribed by Regulations.

Sub-Part IV—Foreign Fishing Vessels

Fishing by foreign fishing vessels

61. (1) A foreign fishing vessel shall not fish or attempt to fish within the fishery waters of Ghana except

- (a) under a licence issued under this Act; or
- (b) as may be otherwise authorised under any agreement between the Government of Ghana and the government of the country in which the fishing vessel is registered or otherwise belongs.

(2) A foreign fishing vessel shall not enter the fishery waters of Ghana unless

- (a) authorised to do so by the terms of a licence or permit issued to it under this Act or under any applicable access agreement in force; or
- (b) it is under circumstances recognised by international law.

(3) Subsection (2) does not apply to a foreign fishing vessel entering the fishery waters for the sole purpose of innocent passage; or by reason of *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress or for any other purpose recognised by international law.

(4) A foreign fishing vessel entering the fishery waters for any of the reasons specified in subsection (3) shall

- (a) observe Regulations made under this Act including Regulations on storage of fishing gear;
- (b) not fish, attempt to fish, load, unload or tranship any fish;
- (c) return to outside the fishery waters as soon as the purpose for which it entered has been fulfilled or the reason has ceased to be valid.

(5) The provisions on licensing in Sub-Part V apply to foreign fishing vessels.

(6) Where a foreign fishing vessel is used in contravention of subsections (1), (2) or (4), the owner, master and charterer, if any, of the vessel individually commits an offence and is liable on summary conviction to a fine of not less than \$250,000 and not more than \$2 million and in addition, the catch fishing gear or any other apparatus or a combination of them used in the commission of the offence shall be forfeited to the State.

Activities of crew and other persons on board a foreign fishing vessel

62. (1) A person, who is on board a foreign fishing vessel or who is a member of the crew of or attached to or employed on a foreign fishing vessel, shall not in Ghana or in the fishery waters engage in fishing or related activities except in accordance with this Act and Regulations made under it.

(2) The owner, operator and each member of the crew of a foreign fishing vessel in the fishery waters shall comply with any applicable access arrangement and applicable laws of Ghana, including this Act.

(3) Fishing gear on board a foreign fishing vessel in a place in the fishing waters where it is not permitted to fish shall be stowed in such manner that it is not readily available for use for fishing or as may be prescribed.

(4) A foreign fishing vessel in a place in the fishery waters shall be operated in such a way that the activities of local and artisanal fishermen and fishing vessels are not disrupted or in any other way adversely affected.

(5) Where a foreign fishing vessel is used in contravention of subsection (1) or (2), the owner, master and charterer, if any, of that vessel individually commits an offence, and is liable on summary conviction to a fine of not less than \$250,000 and not exceeding \$2 million and in addition, the catch, fishing gear or any other apparatus or a combination of them used in the commission of the offence may be forfeited and the fishing licence may be suspended or cancelled.

Licence for foreign fishing vessel

63. (1) A licence shall not be issued under this Act which authorises a foreign fishing vessel to engage in fishing in the fishery waters except under an access arrangement made under this Act.

(2) Subsection (1) does not apply to a licence issued in the absence of an

applicable access arrangement in respect of

- (a) marine scientific research; or
- (b) trial fishing operations.

(3) The provisions of subsections (1) and (2) notwithstanding, the Minister on the recommendation of the Commission may issue a licence to a foreign fishing vessel authorising that vessel to be used in the fishery waters for such fishing or related activities as may be specified in the licence, or for other purposes in accordance with this Act.

(4) The Minister shall not issue a licence to a foreign fishing vessel unless it is satisfied that the vessel

- (a) is registered in accordance with the law of its flag state; and
- (b) a certificate of seaworthiness has been issued for the vessel by the competent authority or by the International Association of Classification Societies (IACS).

Access arrangement

64. (1) The Minister may on the advice of the Commission enter into international access arrangement on behalf of Government with any foreign government, foreign association or other legally constituted foreign body which has power and authority to enforce compliance with the terms of the access arrangement.

(2) An access arrangement shall provide for the allowable allocation of fish which shall not exceed a level consistent with the conservation and management of fishery resources, provide for the protection of local fishermen and shall also be consistent with any fishery plan.

(3) Every access arrangement shall include such provisions as may be required to implement minimum terms and conditions of fisheries access in accordance with this Act, including

- (a) establishing the responsibility of the foreign party to take measures to ensure compliance by its vessels with the terms and conditions of the access arrangement and with all applicable laws, including those relating to fishing and related activities in the fishery waters;
- (b) the issuance of licences and payment of fees for fishing related activities or other activities or operations described in this Act;
- (c) provisions that the owner, charterer, operator, master or any other person responsible for the operation of a licensed vessel shall not tranship fish at sea except only at designated times and places and in accordance with this Act; and
- (d) such other matters as may be required for effective implementation of the access arrangement in accordance with this Act.

Authorisations for marine scientific research and trial fishing

65. (1) Where there is no applicable access arrangement, the Minister on the advice of the Commission may authorise marine scientific research or trial fishing operations in the fishery waters upon completion of procedures required under this Act.

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(2) An authorisation under subsection (1) shall have attached such conditions as the Minister may determine.

(3) An authorisation granted under this section shall be in writing and be in such form as may be determined by the Minister.

(4) A person authorised in accordance with this section shall comply with all applicable laws of Ghana and the conditions of the authorisation.

(5) The Minister may refuse to issue, suspend or cancel the authorisation in accordance with this Act if there is failure to comply with the requirements of this Act or the conditions of the authorisation.

(6) A person who undertakes marine scientific research or trial fishing operations without authorisation commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$10,000 and not more than \$1 million in the case of a foreign fishing vessel or a local industrial or semi-industrial fishing vessel; or
- (b) 100 penalty units and not more than 500 penalty units in any other case.

Chartered foreign fishing vessel

66. (1) A citizen or a qualified company that has entered into a charter agreement for the use of a foreign fishing vessel shall submit a copy of the charter agreement to the Commission for designation as an approved charter agreement.

(2) The conditions for the approval of a charter agreement shall be prescribed by Regulations.

(3) A foreign fishing vessel fishing under an approved charter agreement is subject to all requirements of this Act in respect of foreign fishing vessels, including licensing and compliance requirements as well as penalties.

Appointment of agents

67. The Minister may require that, prior to the issue of a fishing licence to a foreign fishing vessel in which there is no Ghanaian ownership or shareholding, the applicant appoints an agent within Ghana, who is a citizen or a non-citizen who has resided continuously within Ghana for a period of at least five years immediately prior to the proposed appointment, with no record of conviction, and the person shall be authorised to receive and respond to any legal process issued in Ghana with respect to the activities of the vessel, its owner, operator, master and crew members.

Posting of bonds

68. (1) The Minister may require that, prior to the issue of a fishing licence to a foreign fishing vessel, the applicant or its authorised agent posts a performance bond which may be applied for the payment of any fine, penalty or other determination for any offence under this Act committed by or in respect of that vessel or for any liability in relation to the vessel arising under this Act.

(2) The Minister may further require that the posting of a performance bond during the period of validity of the licence shall be a condition for the licence.

Sub-Part V—Fishing Licences for Industrial and Semi-Industrial vessels

Application for a fishing licence

69. (1) Subject to any authorisation given under an access agreement made under this Act in relation to foreign fishing vessels, and except otherwise provided under this Act an application for a fishing licence in respect of local industrial or semi-industrial fishing vessel or a foreign fishing vessel shall be made to the Commission.

(2) The application shall be in such form as may be prescribed by the Commission and shall be submitted with

- (a) documents; and
- (b) and application fee

determined by the Commission.

Recommendations to the Minister

70. (1) The Director shall on an application being submitted to the Commission refer the application, where applicable, to a fishery licence evaluation committee established under section 11.

(2) Where an application is referred to a fishery licence evaluation committee, the committee shall evaluate the application and may request the applicant to provide such further particulars as the committee considers necessary for the purpose of evaluating the application and shall unless delay occurs because of request for further particulars, submit its evaluation to the Commission within fourteen days of the reference by the Director.

(3) The Commission shall within fourteen days of receipt of an evaluation of an application, submit its recommendations to the Minister for the grant or otherwise of the licence the subject of the application.

(4) The Minister shall on the basis of the recommendations of the Commission issue the licence.

Licence fees

71. (1) The fee for a fishing licence shall be determined by the Commission in consultation with the Minister.

(2) Licence for foreign fishing vessels shall be paid in US dollars.

Other conditions of fishing licence

72. Regulations may prescribe further conditions for grant of fishing licence.

Renewal of fishing licence

73. A fishing licence issued under this Sub-Part may on an application to the Commission be renewed subject to such condition as the Commission may determine.

Period of validity of licences

74. (1) Subject to this section, a fishing licence issued or renewed under this Sub-Part shall, unless earlier cancelled or suspended in accordance with this Act or Regulations made under this Act, be valid for a period not exceeding one year, or such lesser period as may be specified in the licence, and shall not in the case of a charter or access agreement, extend beyond the period of validity of the applicable charter agreement or access arrangement.

(2) Fishing licences shall be issued or renewed annually or quarterly or within such period as the Commission may recommend and shall expire

- (a) in respect of an annual licence on 31st December in the year in which it is issued; or
- (b) in respect of a quarterly licence on 31st March, 30th June, 30th September or 31st December in the year in which it is issued.

(3) A licence issued or renewed shall only be valid for the species of fish and the type of fishing gear or method of fishing, or such other activity in accordance with this Act as may be specified in the licence.

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

Transfer of fishing licences

75. (1) A fishing licence issued under this Sub-Part shall not be transferred unless

- (a) the Director has been notified in writing of the transfer prior to the transfer by both the transferor and the transferee;
- (b) the Commission approves the transfer on such conditions as it may determine;
- (c) the written permission of the Minister for the transfer is endorsed on the licence; and
- (d) in the case of a local industrial or semi-industrial fishing vessel the transferee qualifies to hold a local fishing licence as provided under section 47.

(2) Without limiting the scope of subsection (1) the Minister may in order to give effect to any scheme for the restriction of effort in respect of any fish under a fishery management and development plan approved under this Act, in writing, do any or all of the following

- (a) direct that a licence to engage in that fishery activity may not be transferable from one vessel to another vessel, or that the surrender of licences may not give rise to certain rights to new licences; and
- (b) set other conditions under which permission may be given in respect of transfer of licences.

(3) A person, being the previous owner or new owner of a licensed fishing vessel licensed under this Sub-Part who does not notify the Director in writing as provided under subsection (1)(a) commits an offence and is liable upon summary conviction to a fine of not less than

- (a) \$5,000 and not more than \$10,000 in the case of a vessel of less than 50GRT;
- (b) \$25,000 and not more than \$100,000 in the case of a vessel of 50GRT but less than 100GRT;
- (c) \$150,000 and not more than \$500,000 in the case of a vessel of 100GRT but less than 250GRT; or
- (d) \$1 million in the case of a fishing vessel of 250GRT or above.

Refusal, suspension, modification and cancellation of licences

76. (1) The Commission shall not recommend the issue or renewal of a fishing licence for a local industrial or semi-industrial fishing vessel or a foreign fishing vessel unless it is satisfied that

- (a) the application is in accordance with the requirements of this Act and Regulations made under it;
- (b) the required fee has been paid in accordance with this Act and any applicable access arrangement; and
- (c) there has been no failure to satisfy a judgment or other determination for a contravention of this Act or an access arrangement where applicable by the operator of the vessel in respect of which the application for the licence is made.

(2) The Commission may refuse to recommend the issue or renewal of a fishing licence, or may recommend the suspension or cancellation of a fishing licence or authorisation where it is satisfied that:

- (a) information required to be given or reported under this Act and any applicable access arrangement is false, incomplete, incorrect or misleading;
- (b) it is necessary to do so in order to give effect to any licensing programme specified in an approved fisheries plan;
- (c) the owner or charterer of the vessel is the subject of proceedings under the bankruptcy laws of any jurisdiction or on reasonable grounds appears unable to meet any financial obligations which could arise from fishing activities, and has not provided financial assurances required by the Commission;
- (d) the vessel in respect of which the licence was issued has been used in contravention of this Act or in breach of any regulation or direction made or given under this Act or any condition of the licence or, in the case of a foreign fishing vessel, in breach of any applicable access arrangement;
- (e) the fishing vessel does not meet the safety standards required under any enactment for the purpose for the time being in force;

- (f) the fishing vessel does not bear the prescribed markings;
- (g) the gear to be used on the fishing vessel does not meet the requirements of the prescribed mesh sizes;
- (h) the fishing vessel is manned by a crew that is not qualified under an existing enactment for the purpose;
- (i) the vessel is not seaworthy;
- (j) the fishing vessel is not covered by a valid policy of insurance which covers injury to third parties;
- (k) the owner, operator or master of the fishing vessel has failed to submit the catch returns or landing reports or to maintain logbooks as required under this Act or Regulations made under this Act;
- (l) the owner, operator or master of the fishing vessel engages in activity prejudicial to the fishing industry;
- (m) the applicant or operator of the vessel for which a licence is sought has a documented history of non-compliance with fisheries laws or regulations and is believed unlikely to comply with such laws, or regulations if a licence is issued;
- (n) the vessel for which the licence is sought is not equipped with a working transponder for satellite monitoring where applicable.

(3) The Minister may on the recommendations of the Commission impose additional conditions or modify the terms of a fishing licence on such grounds as specified by the Commission after giving notice as provided in subsection (4) to the licensee.

(4) Where a licence has been suspended or cancelled, notification of the cancellation or suspension shall be given to the person to whom the licence was issued within a period of at least seven days before the effective date of the suspension or cancellation.

(5) A notification given under subsection (4) shall be in writing, except that in the case of a foreign fishing vessel, the notification may be in writing or by telex, radio, facsimile or such other form as the Director considers appropriate.

(6) Where a fishing licence has been suspended or cancelled on the grounds specified in subsection (2) (b), a proportion of any fees paid for the fishing licence representing the unexpired period of that licence or the period of suspension, as the case may be, shall be reimbursed to the licensee at the request of the licensee.

Observation of other laws

77. A fishing licence or other authorisation issued under this Act shall not relieve any licensee, or the master or crew of a fishing vessel of any obligation or requirement imposed by law concerning navigation, health, customs, immigration or any other matter.

Establishment of Fisheries Appeals Board and appeals

78. (1) There is established by this Act a Fisheries Appeals Board which shall consist of the following members:

- (a) one representative of the Attorney-General's Department not below the rank of a Chief State Attorney who shall be the chairperson;
- (b) one person appointed by the Minister; and
- (c) one representative of the fishing industry who is not an interested party in the subject matter of the appeal.

(2) A person affected or aggrieved by a decision of the Minister to

- (a) refuse to issue or renew a licence under this Act; or
- (b) modify, cancel or suspend a licence,

may, within fourteen days of receipt of notification of that decision appeal first to the Fisheries Appeals Board for redress.

(3) The Fisheries Appeals Board may confirm, reverse or vary the decision appealed against.

(4) A person dissatisfied with the decision of the Appeals Board may seek such redress as that person considers appropriate from the courts.

(5) The Fisheries Appeal Board shall regulate its proceedings and shall in its deliberations be guided by fairness and the rules of natural justice.

Register of licences

79. The Commission shall maintain a register of licences issued under this Act, containing information relating to

- (a) the vessel, person or project licensed;
- (b) the nature of the activity licensed;
- (c) the period of validity of each licence; and
- (d) such additional information relating to the licences as may be determined by the Commission.

Other authorisation and permits

80. The provisions on fishing licence under this Sub-Part shall unless otherwise provided in this Act or Regulations made under this Act, apply to any other authorisation or permit required under this Act with such modifications and adaptations as may be necessary.

Sub-Part VI—Fishing Zones, Gear, Methods and Manning of Motor Vessel

Establishment of zones and prohibition of fishing inside zones

81. (1) The water area specified in the Schedule to this Act is hereby declared as the Inshore Exclusive Zone (IEZ) of Ghana.

(2) The IEZ shall be used exclusively by small semi-industrial vessel (SIV), canoes and recreational fishing vessels.

(3) A person shall not use a large semi-industrial vessel or industrial fishing vessel for fishing inside the IEZ.

(4) A person shall not use a canoe support vessel to fish in the IEZ.

(5) A towing gear shall not be used in 30-metre zone or such depth as may be prescribed by Regulations.

(6) Notwithstanding any provision of this section the Commission may at such periods as it considers appropriate permit large semi-industrial vessels to enter the IEZ for the capture of cephalopods.

(7) The Director may on written guidelines by the Commission, exempt in writing a research or any other fishing vessel from subsections (4) or (5).

(8) A person who contravenes subsection (3), (4) or (5) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$100,000 and not more than \$500,000 in respect of a foreign fishing vessel;
- (b) \$10,000 and not more than \$100,000 in respect of a local industrial or semi-industrial fishing vessel; or
- (c) not less than 100 penalty units and not more than 500 penalty units in any other case.

Destruction of fishing gear of artisanal fishermen in IEZ

82. (1) A person aboard a motor fishing vessel shall not destroy or damage any appropriately marked fishing gear of an artisanal fisherman inside the IEZ.

(2) Regulations may provide for the relevant and appropriate marking of artisanal vessels and gear.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$5,000 and not more than \$100,000 and in addition, the master, owner and charterer, if any, of the vessel in respect of which the offence was committed shall be jointly and severally responsible for providing to the aggrieved artisanal fishermen

- (a) full compensation for the destroyed gear either in kind or in cash; and
- (b) adequate compensation for lost fishing time.

Manning of motor fishing vessels

83. (1) A motor fishing vessel of or exceeding 24 metres shall not proceed to sea or call at a port in Ghana unless it has on board:

- (a) a skipper who is the holder of a First Class Fishing Certificate of Competency (Unlimited), issued by the competent authority;
- (b) a mate or second hand as the case may be who is the holder of a Second Hand Certificate of Competency (Unlimited), issued by the competent authority, except that a skipper who is the holder of a

First Class Fishing Certificate of Competency (Limited to vessels between 12 metres and 24 metres), operating in unlimited waters may serve in this capacity.

- (c) an engineer who is the holder of a First Class Engineer's Certificate of Competency (Fishing), issued by a competent authority;
- (d) an engineer who is the holder of a Second Class Engineer's Certificate of Competency (Fishing), issued by a competent authority;
- (e) a bosun who is a holder of an Ablebodied Seaman's Certificate of Competency issued by the competent authority;
- (f) in the case of a vessel equipped with marine radio telephone, a radio operator with the requisite certificate of competency issued by the competent authority; and
- (g) in the case of a vessel equipped with marine telegraphy, a radio operator with the requisite Certificate of Competency issued by the competent authority.

(2) No motor vessel of 12 metres length or more but less than 24 metres shall proceed to sea from a port in Ghana unless it is provided with

- (a) a skipper who is the holder of a First Class Fishing Certificate of Competency (Limited to vessels between 12 metres and 24 metres), issued by a competent authority;
- (b) a mate or second hand as the case may be who is the holder of a Second Hand Certificate of Competency (Limited to vessels between 12 metres and 24 metres), issued by the competent authority except that a skipper who is the holder of a First Class Fishing Certificate of Competency (Limited to vessels of length less than 12 metres), operating in limited or unlimited waters may serve in that capacity;
- (c) a bosun who is a holder of an Ablebodied Seaman's Certificate of Competency issued by the competent authority; and
- (d) a marine motor mechanic who is the holder of a Certificate of Competency issued by the competent authority.

(3) No motor fishing vessel of less than 12 metres shall proceed to sea from a port in Ghana unless it is provided with:

- (a) a skipper who is the holder of a First Class Fishing Certificate of Competency (Limited to vessels of length less than 12 metres), issued by the competent authority;
 - (b) a bosun who is the holder of an Ablebodied Seaman's Certificate of Competency, issued by the competent authority; and
 - (c) a marine motor mechanic who is the holder of a Certificate of Competency issued by the competent authority.
- (4) Except in case of emergency at sea no person shall
- (a) hold himself out as a skipper, second hand, radio officer, radio operator, bosun or engineer of a semi-industrial or industrial vessel

without first ascertaining that the person has been duly certified as such in accordance with this section;

- (b) employ any person as a skipper, second hand, radio officer, radio operator, bosun or engineer of a semi-industrial or industrial vessel without first ascertaining that the person has been duly certified as such in accordance with this section.

(5) For the purposes of this section a person is duly certificated as a skipper, second hand, radio officer, radio operator, bosun or engineer of a semi-industrial or industrial vessel if that person holds for the time being a Certificate of Competency granted by the competent authority.

(6) Where the skipper or engineer of a semi-industrial or industrial vessel is absent, the competent authority may on application by the owner of the vessel and on being satisfied that the absence of the skipper or engineer is unavoidable, authorise the holder of a lower grade fishing vessel certificate to act for a specified period, but not exceeding four months, as the skipper or engineer of the vessel during the period that the skipper or engineer is absent, and the holder of the lower grade certificate of competency so authorised to act shall for the purposes of subsection (5) be regarded as the duly certified skipper or engineer.

(7) A competent authority designated in writing by the Commission shall keep a record of every Certificate of Competency issued and of any suspension, alteration or cancellation or any other matter affecting any such certificate.

(8) The owner, operator or master of a vessel used in contravention of subsection (1), (2) or (3) commits an offence and is liable on summary conviction to a fine of not less than \$10,000 and more than \$500,000 in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel.

(9) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of not more than 500 penalty units or imprisonment for a term not exceeding 2 years or to both.

Sub-Part VII—Fishing Activities

Closed seasons

84. (1) The Commission may by notice in the *Gazette* declare closed seasons, including their duration, for fishing in specified areas of the coastal waters or the riverine system.

(2) A declaration made under subsection (1) shall be given all reasonable publicity and, where possible, shall be given in advance of the closed season.

(3) A closed season declared by any international body of which Ghana is a member shall be regarded as a closed season declared under this Act.

(4) A person who engages in fishing during a closed season declared in accordance with this section commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$500,000 and not more than \$2 million in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel; or

- (b) 100 penalty units and not more than 500 penalty units in any other case.

and in addition, any catch, fishing gear or vessel or any combination of them used in the commission of the offence may be forfeited to the State.

Net for fishing

85. The Minister acting in accordance with the advice of the Commission shall by Regulations prescribe the types and sizes of gear or devices that may be used for fishing including prohibited nets and the relevant fishing activities.

Submerged stationary fishing gear

86. (1) Every submerged stationary fishing gear or surface drifting gear shall bear conspicuous surface marks using brightly coloured buoys, flags or floating poles and night lighted markers all of which must be visible in clear weather at a distance of at least one nautical mile; except that in the case of nets, the markers shall be placed at intervals of twenty-five metres along the full length of the net.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of

- (a) not more than 250 penalty units in respect of an artisanal fishing activity; or
(b) not less than \$1,000 and not more than \$10,000 in respect of any other fishing vessel.

Driftnet fishing activities

87. (1) A fishing vessel whether registered in Ghana or outside Ghana shall not be used for or assist in any driftnet fishing activities in the fishery waters.

(2) A person shall not engage or assist in any driftnet fishing activity.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than

- (a) 25 penalty units and not more than 500 penalty units in respect of an artisanal fishing activity; or
(b) \$250,000 and not more than \$2 million in respect of any other fishing vessel

and in addition, the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited to the State.

Prohibited fishing methods

88. (1) A person shall not

- (a) permit to be used, use or attempt to use any explosive, poison or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught; or
(b) carry on board or have in his or her possession or control without lawful authority at any place within a two kilometre radius from any

shore or river, any explosive, poison or other noxious substance in circumstances indicating an intention of using such substance for any of the purposes referred to in paragraph (a).

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

(3) A person who lands, sells, receives or possesses fish taken by any means which contravenes subsection (1) (a) and who knows or has reasonable cause to believe that the fish has been so taken, commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$250,000 and not more than \$2 million in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel; or
- (b) 25 penalty units and not more than 500 penalty units in any other case.

and in addition, the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence shall be forfeited to the State.

(4) In any proceedings for an offence under this section, a certificate as to the cause and manner of death or injury of any fish, signed by an authorised person or observer shall, until the contrary is proved, be sufficient evidence as to the matters stated in the certificate.

(5) In proceedings for an offence under this section, the defendant shall be given not less than fourteen days' notice in writing of the prosecution's intention to produce a certificate under subsection (4).

Sub-Part VIII—Conservation Measures

Protection of gravid and juvenile lobsters, other crustacea and other juvenile fish

89. (1) A person shall not knowingly take any

- (a) gravid lobsters;
- (b) crustacea; or
- (c) any juvenile fish

during fishing.

(2) Where any fish mentioned in subsection (1) is caught accidentally or as a by-catch it shall immediately be returned to the sea, river or lake.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of

- (a) not less than \$50,000 and not more than \$1 million in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel, or
- (b) not more than 250 penalty units in any other case.

and in addition, the catch, fishing gear or other apparatus or any combination of them used in the commission of the offence may be forfeited to the State.

Fishing for marine mammals

90. (1) Subject to subsection (3), no person shall fish for marine mammals in the fishery waters.

(2) Any marine mammal caught incidentally shall be released immediately and returned to the waters from which it was taken with the least possible injury.

(3) The Director with the approval of the Commission may give written authorisation to fish for marine mammals in a limited manner.

(4) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$50,000 and not more than \$1 million in respect of a local industrial or semi-industrial vessel or a foreign fishing vessel; or
- (b) 500 penalty units in any other case.

Marine reserves

91. (1) The Minister may on the advice of the Commission and, after consultation with the Minister for the Environment, owners of the adjoining land and the relevant District Assembly declare any area of the fishery waters and the seabed underlying the waters to be a marine reserve.

(2) A person who, except with the written permission of the Minister, within any marine reserve

- (a) engages in fishing;
- (b) dredges or takes any sand or gravel; or
- (c) otherwise disturbs the natural habitat

commits an offence and is liable on summary conviction to a fine of not less than \$50,000 and not more than \$2 million in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel and not more than 500 penalty units in any other case.

Pollution of fishery waters

92. A person who directly or indirectly introduces a deleterious substance into the fishery waters which adversely affects the habitat or health of the fish or other living aquatic resource commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$50,000 and not more than \$2 million where a local industrial or semi-industrial vessel or a foreign fishing vessel is used in the commission of the offence; or
- (b) 50 penalty units and not more than 500 penalty units in any other case.

and the person may be ordered by the court to pay such additional amount as the court may determine in compensation for any loss suffered as a result of the introduction of the deleterious substance and any related clean-up costs.

Fisheries impact assessments

93. (1) A person or government department or other agency planning to conduct any activity other than fishing, which is likely to have a substantial impact on the fishery resources or other aquatic resources of Ghana, shall inform the Commission of the plans prior to the commencement of the planned activity with a view to the conservation and protection of the resources.

(2) The Commission may make or require reports and recommendations by those conducting the planned activity regarding the likely impact of the activity on the fishery resources or other aquatic resources of Ghana and possible means of preventing or minimising adverse impacts, which shall be taken into account by the person, government department or other agency in the planning of the activity and in the development of means of preventing or minimising any adverse impacts.

(3) The requirement under this section shall be in addition to any other requirement of the Environmental Protection Agency.

Sub-Part IX—Monitoring, Control, Surveillance and Enforcement**Establishment and Functions of the Monitoring, Control, Surveillance and Enforcement Unit**

94. (1) There is established by this Act a Fisheries Monitoring, Control, Surveillance and Enforcement Unit hereafter referred to as the Enforcement Unit.

(2) The Enforcement Unit is responsible for

- (a) monitoring, control and surveillance of all fishing operations within the fishery waters by whatever appropriate means including, the management and running of a satellite base station for using satellite communications for data transmission relating to the activities of foreign fishing vessels licensed to operate within the EEZ; and
- (b) the enforcement of this Act, Regulations made under this Act and any other enactment relating to the regulation of fishing activities.

(3) The Enforcement Unit shall include such personnel from the Ghana Navy, Ghana Airforce and the secretariat of the Commission as the Minister shall in consultation with the Minister for Defence determine.

(4) The Minister may request personnel from other departments, agencies of State or other competent bodies or organisations to assist the Enforcement Unit in the performance of its functions.

(5) There shall be assigned to the Enforcement Unit an Attorney from the Ministry of Justice.

(6) The Minister shall in consultation with the Minister for Defence, appoint the head of the Enforcement Unit.

Authorised officers

95. (1) The Minister may, in writing, appoint any public officer as an authorised officer for the purposes of this Act and the person shall exercise all powers and functions provided by or under this Act.

(2) Without limiting the scope of subsection (1) the following are authorised officers for the purposes of this Act, Regulations made under it and any other enactment relating to the regulation of fisheries:

- (a) personnel of the Enforcement Unit;
- (b) personnel of the Ghana Navy;
- (c) air crew and personnel of the Airforce deployed for fishery duties;
- (d) officers of the Water Research Institute; and
- (e) fishery officers of the secretariat of the Commission.

Police and other powers of authorised officers

96. (1) For the purposes of enforcing this Act, an authorised officer shall have the same powers of arrest as a police officer.

(2) Without limiting the scope of subsection (1) an authorised officer may

- (a) stop, board, remain on board and search any vessel in the fishery waters which the officer reasonably believes is a fishing vessel;
- (b) stop, board, remain on board and search any vessel registered in Ghana found outside the fishery waters;
- (c) stop and search any vessel, vehicle or aircraft the officer reasonably believes may be transporting fish or engaged in other activities relating to fishing;
- (d) require the master or any crew member or other person aboard a vessel to inform the officer of the name, call sign and country of registration of the vessel and the name of the master, owner, charterer or other crew member;
- (e) question the master or any crew member or other person aboard about the cargo, contents of holds and storage spaces, voyage and activities of the vessel;
- (f) make such examination and inquiry as may appear necessary to the officer concerning any vessel, vehicle or aircraft in relation to which any of the powers conferred by this subsection have been or may be exercised and take samples of any fish or fish product found in the vessel, vehicle or aircraft;
- (g) require to be produced and examined and take copies of any licence, logbook, record or other document required under this Act or concerning the operation of the vessel, vehicle or aircraft.

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- (h) make an entry dated and signed by the officer in the logbook of the vessel or aircraft;
- (i) require to be produced and examined any fish, fishing gear or appliance or explosive, poison or other noxious substance;
- (j) examine and test, where relevant any satellite tracking device or transponder required to be installed in the vessel by this Act or Regulations made under this Act;
- (k) give to the master and any crew member of the vessel, vehicle or aircraft, stopped, boarded or searched, such directions as may be necessary or reasonably expedient for any purpose specified in this Act or to ensure compliance by the vessel, vehicle or aircraft, or master or any crew member, of the conditions of any licence or authorisation;
- (l) examine and endorse any licence or authorisation;
- (m) arrest any person who assaults the officer in the exercise of the duties of the officer under this Act.

(3) Where an authorised officer has reasonable grounds to believe that an offence under this Act is being or has been committed, the officer may without a warrant

- (a) enter, inspect and search any premises, other than premises used exclusively as a dwelling-house, in which the officer has reasonable grounds to believe an offence has been or is being committed or fish taken illegally is being stored;
- (b) stop, enter and search and stay in or on any vehicle or aircraft which the officer reasonably suspects of transporting fish or fish products;
- (c) within the fishery waters, follow in hot pursuit in accordance with international law and stop, board and search outside the fishery waters any foreign vessel which the officer has reasonable grounds to believe has been used in the commission of the offence and bring the vessel and persons on board within the fishery waters;
- (d) take samples of any fish found in any vessel, vehicle or aircraft inspected or any premises searched under this Act;
- (e) seize:
 - (i) any vessel (including its fishing gear, equipment, stores and cargo), vehicle, fishing gear, nets or other fishing appliances or aircraft which the officer has reasonable grounds to believe has been used or is being used in the commission of an offence;
 - (ii) any fish or fish products which the officer has reasonable grounds to believe have been caught in the commission of an offence or fish or fish product which are possessed in contravention of this Act;

- (iii) any electric shock device, explosive, poison or other noxious substance which the officer has reason to believe has been used or is possessed in contravention of this Act;
 - (iv) fish that does not meet health standards prescribed under this Act or any other enactment;
 - (v) any logs, charts or other documents required to be maintained by this Act or under the terms of any licence or other authorisation which the officer has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence under this Act;
 - (vi) any thing which the officer has reasonable grounds to believe might be used as evidence in any proceedings under this Act;
- (f) arrest any person whom the officer has reasonable grounds to believe has committed an offence under this Act.
- (4) An authorised officer may, in arresting any person or seizing a fishing vessel which the officer has reasonable grounds to believe has acted in contravention of this Act, use such force as is reasonably necessary in the circumstances to effect the arrest.
- (5) A written receipt shall be given for any article or thing seized under this section and the grounds for the seizure shall be stated in the receipt.
- (6) Any person arrested without a warrant under this section shall be taken to a police station forthwith and dealt with in accordance with law.
- (7) An authorised officer may, with or without a warrant or other process execute any warrant or other process issued by a court.

Powers of authorised officer beyond limits of fishery waters

97. Where, following in hot pursuit in accordance with this Act, a fishing vessel is pursued beyond the limits of the fishery waters, the powers conferred on an authorised officer by this Act shall be exercisable beyond the limits of the fishery waters in accordance with international law.

Seized vessels to be taken to port

98. (1) Where a vessel is seized under this Act,
- (a) the master and crew shall take it to such port as the authorised officer shall designate, being the nearest or most convenient port; and
 - (b) the master shall be responsible for the safety of the vessel, the port charges and every person on board the vessel, including the crew and any authorised officer until the vessel arrives at the designated port.
- (2) If the master fails or refuses to take the seized vessel to the designated port, the authorized officer or a person called upon to assist the master, may do so.

(3) If a vessel is taken to port under subsection (2), no claim whatever may be made against any authorised officer or the Government in respect of any damage, injury, loss or death which occurs while the vessel is being so taken, subject to the provisions of this Act.

(4) The provisions relating to vessels and masters described in subsections (1) to (3) shall apply with necessary modification to vehicles and aircraft seized in accordance with this Act, and their drivers and pilots respectively.

Removal of parts from seized vessels

99. (1) An authorised officer may remove a part from any unlicensed vessel, vehicle or aircraft held in the custody of the State for the purpose of immobilising that vessel, vehicle or aircraft.

(2) Any part removed under subsection (1) shall be kept safely and returned to the vessel, vehicle or aircraft upon its lawful release from custody.

(3) A person shall not

- (a) knowingly possess or arrange to obtain any part removed under subsection (1);
- (b) knowingly possess or arrange to obtain or make any replacement or substitute a part for those removed under subsection (1); or
- (c) fit or attempt to fit any part or any replacement or substitute part to a vessel, vehicle or aircraft held in the custody of the State.

(4) Any person who contravenes any provision of subsection (3) commits an offence and is liable on summary conviction to a fine of not less than \$1,000 and not more than \$1 million or imprisonment for a term not exceeding 2 years.

Observers of fishing vessels

100. (1) The Minister may on the recommendations of the Commission appoint in writing public officers to act as observers in respect of any vessel issued with a fishing licence or authorisation under this Act.

(2) Observers shall perform such functions as the Minister may determine, including

- (a) collection of catch and effort data;
- (b) taking reasonable samples of fish for scientific purposes; and
- (c) reporting violations of this Act and Regulations made under it.

Duties of master and crew towards authorised officers and observers

101. (1) A person on board a fishing vessel with a valid licence or authorisation issued under this Act shall permit an authorised officer or observer to board and remain on the vessel for the purposes of carrying out the duties of the officer or observer under this Act.

(2) The operator and every member of the crew of the vessel shall allow and assist an authorised officer or observer to

- (a) board the vessel for scientific, compliance monitoring and other functions, at such time and place as the Director may direct;

- (b) have full access to and the use of facilities and equipment on board the vessel which the authorised officer or observer may determine is necessary to carry out the duties of the officer or observer, including
 - (i) full access to the bridge, navigation charts, fish on board and areas which may be used to hold, process, weigh or store fish;
 - (ii) full access to the vessel's records, including its logbooks and documentation for the purposes of records inspection and copying;
 - (iii) full access to fishing gear on board; and
 - (iv) reasonable access to navigation equipment and radios;
- (c) take and remove from the vessel reasonable samples for the purposes of scientific investigation and other relevant information;
- (d) take photographs of the fishing operations, including fish, fishing gear and equipment and charts and records, and remove from the vessel photographs or film the officer or observer may have taken or used on board the vessel;
- (e) send or receive messages by means of the vessel's communications equipment;
- (f) carry out all duties safely; and
- (g) disembark at such time and place as may be requested.

(3) The operator of the vessel shall provide an authorised officer or observer forced by circumstances to stay on board the vessel for a prolonged period of time, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel at no expense to the authorised officer or observer.

(4) An operator of a vessel with a valid licence or authorisation issued under this Act shall allow and assist any authorised officer or observer to have full access to any place within Ghana where fish taken in the fishery waters is unloaded, processed, stored or transhipped, to remove reasonable samples for scientific purposes and to gather information relating to fisheries in the fishery waters.

(5) Any person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine not exceeding \$1 million.

Compliance with directions of authorised officers and observers and penalties

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

(2) The master and every crew member of a vessel, driver of a vehicle and pilot and crew of an aircraft shall take all reasonable measures to ensure the safety of an authorised officer or observer as appropriate in the performance of the duties of the officer or observer.

(3) A person who contravenes subsections (1) or (2) and a person who,

- (a) assaults, obstructs, resists, delays, refuses boarding to, intimidates or fails to take all reasonable measures to ensure the safety of or otherwise interferes with an authorised officer or an observer in the performance of the duties of the officer or observer;
- (b) incites or encourages any other person to assault, resist or obstruct any authorised officer or observer while carrying out the duties of the officer or observer, or any person lawfully acting under the officer's orders or in the aid of the officer or observer;
- (c) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards an authorised officer or observer while in the execution of the duties of the officer or observer, or any person lawfully acting under the authorised officer's or observer's orders or in aid of the authorised officer or observer;
- (d) fails to comply with the lawful requirements of an authorised officer or observer;
- (e) furnishes to an authorised officer or observer any particulars which, to that person's knowledge are false or misleading in any material respect; or
- (f) impersonates or pretends to be an authorised officer or observer or pretends to be a person lawfully acting under an authorised officer's or observer's orders or in aid of the officer or observer

commits an offence and is liable on summary conviction to a fine of not less than 50 penalty units nor more than 500 penalty units in respect of an artisanal fishing vessel and not less than \$1,000 nor more than ₵2 million in respect of any other fishing vessel.

(4) For the purposes of subsection (3), a person who does not allow an authorised officer or an observer, or a person acting under the officer or observer or in aid of the officer, or observer to exercise powers or perform the functions conferred on the person by this Act shall be deemed to be obstructing that officer, or observer or person.

(5) Where a vessel transports an authorised officer or observer outside the fishery waters and the officer or observer is forced to disembark outside the territory or jurisdiction of Ghana, the master, owner and agent commit an offence and are jointly and severally liable on summary conviction to a fine of not less than \$20,000, plus all costs of repatriation including board and lodging while out of Ghana and the cost of direct transportation to Ghana.

Identification of authorised officer and observer

103. An authorised officer or an observer, when exercising any of the powers conferred by this Act on an authorised officer or observer, shall on request produce identification to show that the person is an authorised officer or observer under this Act.

Insurance protection for authorised officers and observers

104. The Government shall arrange for full insurance coverage for all authorised officers and observers for the duration of their sea duties.

Indemnity for officers

105. Subject to the Constitution no action shall be brought against the personnel of the Enforcement Unit, an authorised officer or an observer in respect of any act done in good faith in the performance of their functions under this Act.

Sub-Part X—Detention, Sale, Release and Forfeiture of Property

Release of seized goods

106. (1) Subject to the other provisions of this section where an offence is committed under this Act in relation to a fishing vessel, aircraft, vehicle or other item, the fishing vessel, aircraft, vehicle or items may be arrested or seized and detained pending the conclusion of proceedings arising from the offence.

(2) A court may, on application, order the release of any fishing vessel (together with its fishing gear, equipment, stores and cargo), vehicle, aircraft or other items seized under this Act on receipt of such bond or other form of security as it may determine.

(3) In determining the value of the bond or other form of security, the court shall have regard to the aggregate amount of the value of the property to be released, an estimated total fine or other penalty provided for the offences charged or likely to be charged and the costs the prosecution is likely to recover if a conviction were entered, and may set the value at the aggregate amount.

(4) Notwithstanding subsection (3), the amount determined by the court under this section shall not be less than the fair market value of the property to be released or the aggregate minimum fine or penalty for each offence charged, whichever is greater.

(5) Where a vessel, vehicle, aircraft or other item seized is released upon the lodging of a bond or other form of security, the court shall, in the order, state separately the sums which are attributable to the property to be released, the total fine or fines and the likely costs.

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

- (a) a finding by the court that the vessel, aircraft, vehicle or other item has not been used in the commission of an offence under this Act; or

- (b) payment in full within thirty days of the judgment of the court of any fine imposed by the court and any costs ordered to be paid by the court.

(7) Nothing in subsection (2) shall require a court to release any vessel, vehicle, aircraft or other item if it might be required as an exhibit in court proceedings or is reasonably required for any further investigations of offences under this Act.

Sale of perishable goods seized

107. (1) Any fish or other item of a perishable nature seized under this Act or the proceeds of sale of such fish or item shall be held and dealt with in accordance with the provisions of this Act.

(2) The Director or an agent of the Commission may direct the sale of the fish or other items referred to in subsection (1) and the proceeds of the sale shall be deposited with a court pending the outcome of any court proceedings under this Act, except that where, after making all reasonable effort, the fish or other items cannot be sold, or where they are unfit for sale, the Director or the agent may dispose of them in such other manner as the Director or agent thinks fit.

(3) The Director or agent shall notify the owner or apparent owner of the perishable goods seized, of the sale or other means of disposal, and the owner or the nominee of the owner may be present at the sale.

Holding of seized goods

108. Subject to the other provisions of this Sub-part, a vessel, vehicle, aircraft or other item seized under this Act or a bond or other security or net proceeds of any sale in respect of a vessel, vehicle, aircraft or other item seized shall be held by the court pending the outcome of any legal proceedings under this Act or until it is decided not to lay any charge, and any penalties imposed under this Act or agreed to be paid have been fully paid.

Court's power of forfeiture

109. (1) Where a person is convicted of an offence under this Act, the court in addition to any other penalty

- (a) may order that any fishing vessel (together with its fishing gear, equipment, stores and cargo) and any vehicle or aircraft used or involved in the commission of that offence shall be forfeited to the State;
- (b) shall order, where a person is convicted of an offence relating to an unlicensed activity under this Act, that any fishing vessel (together with its fishing gear, equipment, stores and cargo) and any vehicle or aircraft used or involved in the commission of that offence be forfeited to the State.

(2) Where any vessel, vehicle, aircraft or other item seized under this Act, or any bond, security or net proceeds of sale in respect of a vessel, vehicle, aircraft or other item seized is not forfeited or applied in the discharge of any fine, order or costs of penalty imposed under this Act, it shall be made available for collection by the registered owner or the nominee of the owner or, in the absence of such a person, the person who appears to the court to be entitled to it.

(3) Where a vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security, an order for forfeiture shall, unless the court for special reasons fixes a smaller sum, operate as an order for forfeiture of the bond or security.

Application of bond

110. A bond, security or net proceeds of sale held in respect of a vessel, vehicle, aircraft or other item shall be applied in the following order:

- (a) the discharge of any forfeiture ordered under this Act;
- (b) the payment of all fines or penalties for offences under this Act or penalties imposed under this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and

any amount remaining shall be returned to the owner or the agent of the owner.

Unlawful removal of seized goods

111. Where a vessel, vehicle, aircraft or other item held or forfeited under this Act are unlawfully removed from the custody of a government agency, the vessel, vehicle, aircraft or other item shall be liable to seizure any where at any time within the jurisdiction of Ghana.

Disposal of forfeited goods

112. (1) A vessel, vehicle, aircraft or other item ordered to be forfeited under this Act may, at the expiry of the time limited for appeal and if no appeal is lodged, be disposed of in such manner as the Commission may determine.

(2) A vessel, vehicle, aircraft or other item seized under this Act but not forfeited in any legal proceedings may be held by the Commission until all fines, orders for costs and penalties imposed under this Act have been paid and failing payment within the time allowed, may be sold and the balance of the proceeds returned to the person entitled in accordance with this Act after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale.

(3) Except otherwise provided in this Act, the proceeds of sale of forfeited items other than fines shall be deposited in the Fund established under section 36.

Liability for loss, damage or deterioration of items in custody

113. Subject to the provisions of this Act, the Commission shall take or arrange for reasonable care to be taken of any item in its custody pursuant to this Act, but shall not otherwise be liable to any person for any loss, damage to or deterioration

in the condition of any vessel, vehicle, aircraft, cargo or other item while in the custody of the Commission under this Act.

Removal of property in custody

114. A person who removes a vessel, vehicle, aircraft or other item held in custody under this Act commits an offence whether or not the person knew that the vessel, vehicle, aircraft or other item was held in custody and is liable on summary conviction in addition to the cost of the item removed, to a fine of not less than 250 penalty units and not exceeding 1,000 penalty units.

PART V—JURISDICTION AND EVIDENCE**Jurisdiction of the court**

115. (1) An act or omission in contravention of a provision of this Act committed

- (a) by a person within the fishery waters; or
- (b) outside the fishery waters by a Ghanaian citizen or a person ordinarily resident in Ghana; or
- (c) by a person on board a local fishing vessel,

shall be dealt with in such court as the Chief Justice may determine except that where a foreign fishing vessel is involved, the matter shall be dealt with by the High Court and the judicial proceedings shall be taken as if the act or omission had taken place within the jurisdiction of Ghana.

(2) Where an authorised officer or an observer is exercising outside the fishery waters a power conferred on the officer or observer in accordance with this Act, any act or omission of a person in contravention of a provision of this Act, shall be deemed to have been committed within the fishery waters.

(3) Notwithstanding any other law to the contrary, an information or charge in respect of an offence under this Act may be laid at any time within one year of the commission of the offence.

Compounding of offences—administrative penalties

116. (1) Subject to subsection (4) the Commission may, where it is satisfied that a person has committed an offence under this Act, and the person has in writing admitted to having committed the offence and expressed willingness that the offence be so dealt with, compound the offence by accepting on behalf of the Government from the person a sum of money of not less than the minimum penalty specified for the offence plus the fair market value of any fish caught illegally, and the sum when paid shall immediately be paid into the Fund.

(2) In compounding an offence, the Commission shall take into account any report which may be prepared by the prosecutor as to the details of

the offence for which the person would otherwise be charged and the minimum penalty level for the offence.

(3) In addition to the requirements of subsection (1), the Commission shall require that a person who has previously committed an offence under this Act and seeks to have a current offence compounded shall pay not less than the minimum penalty plus 10% of the minimum penalty for each offence previously committed.

(4) Compounding of an offence under this section shall be with the consent of the prosecutor.

(5) On compounding an offence under this section, the Commission may order the release of any article seized under this Act or the proceeds of sale of the article on conditions determined by the Commission, but the Commission shall not order the release unless all penalties have been paid in full.

(6) The compounding of an offence under this section is valid upon the payment of the fine or penalty determined by the Commission, and the notification in writing upon payment under the signature of the Commission and the offender, to the appropriate court.

(7) The compounding of an offence is of no effect if the full amount of the penalty is not deposited with the Commission within thirty days of the decision, and the matter shall, in that event, revert to court.

(8) Any person aggrieved by a decision of the Commission may appeal to the High Court against any penalty imposed under this section.

(9) Where the Commission compounds an offence under this section, the person concerned is not liable for prosecution for the offence.

(10) The Commission may in writing assign the function conferred by this section to the Director.

Certificate evidence

117. The Director or a person designated in writing by the Director may give a certificate stating that:

- (a) a specified vessel was or was not, on a specified date, a local fishing vessel or a foreign fishing vessel;
- (b) a specified vessel or person was or was not, on a specified date, the holder of any specified licence;
- (c) a particular location or area of water was on a specified date within the fishery waters, or within a closed, limited, restricted or in any other way controlled area of the fishery waters, or an area of the fishery waters subject to specified conditions;
- (d) an appended chart shows the boundaries, on a specified date, of the fishery waters, closed or limited areas or other areas or zones delineated for any specified purpose;
- (e) a particular item or piece of equipment is fishing gear;

- (f) the death of or injury to any fish was caused in a particular manner;
- (g) an appended document is a true copy of an approved charter agreement, an access arrangement or related agreement;
- (h) a call sign, name or number is that of or allotted under any system of naming or numbering of vessels to a particular vessel;
- (i) a particular position or catch report, a copy of which is appended, was given in respect of a specified vessel.

Validity and procedures for certificates

118. (1) Unless the contrary is proved, a document purporting to be a certificate issued under section 117 shall be regarded as such a certificate and to have been duly issued.

(2) Where a certificate issued under section 117 is served on a defendant seven or more days before its production in court in any proceedings under this Act, the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(3) Where a certificate issued under section 117 is served on a defendant fourteen or more days before its production in court and the defendant does not, within seven days of the date of service, serve notice of objection in writing upon the prosecutor, then the certificate shall, unless the court finds the defendant is unduly prejudiced by any failure to object, be conclusive proof of all the facts averred in it.

(4) Where any objection is notified under subsection (3) the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(5) A certificate issued under section 117 shall be titled "Certificate Made Under section 117, Fisheries Act" and no such certificate may be used as conclusive proof of the facts averred therein unless it is served with a copy of sections 117 and 118 of this Act.

(6) Any omission from or mistake made in a certificate issued under section 117 shall not render it invalid unless the court considers that the omission or mistake is material to any matter in the proceedings concerned, or the defendant is unduly prejudiced thereby.

(7) Where in any proceedings a certificate issued under section 117 is produced to the court, the prosecution shall not be obliged to call the person who issued the certificate and the court shall, where material, rely on the facts in the certificate unless the contrary is proved.

Certificate as to the location of a vessel

119. (1) Where in proceedings under this Act the place or area in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to an offence charged, then the place or area stated in a certificate

given by an authorised officer shall be evidence, unless the contrary is proved, of the place or area in which the vessel was at the date and time or during the period of time stated.

(2) An authorised officer shall in any certificate issued under subsection (1) state:

- (a) the name, address, official position, country of appointment of the officer and the provision of the enactment under which the officer is appointed;
- (b) the name and, if known, call sign of the fishing vessel concerned;
- (c) the place or area in which it is alleged the vessel was located;
- (d) the date and time or period of time the vessel was in the place or area;
- (e) the position fixing instruments used to fix the place or area stated in (c) and their accuracy within specified limits;
- (f) a declaration that the officer checked the position fixing instruments a reasonable time before and after they were used to fix the position and they appeared to be working correctly; and
- (g) if a position fixing instrument which is not judicially recognised as notoriously accurate or a designated machine is used, a declaration that the officer checked the instrument as soon as possible after the time concerned against such instrument.

(3) Section 118 shall apply to a certificate issued under this section as if it had been a certificate issued under section 117 and any reference in the certificate to section 118 shall be read as a reference to this section.

(4) For the purposes of this section an authorised officer includes surveillance officers and officers charged with similar responsibilities in other countries.

Designated machines

120. (1) The Minister may by notice in the *Gazette* designate any machine or class of machines as a designated machine or machines.

(2) The readings of designated machines shall be admissible as evidence of the facts they aver if:

- (a) the readings were made by a competent operator of the machine; and
- (b) the machine was checked for correct working at a reasonable time before and after the readings it is sought to adduce in evidence were made, and the machine appeared to be working correctly.

(3) A designated machine, when checked for correct working and read by a competent operator, shall, unless the contrary is proved, be presumed to give accurate readings within the manufacturer's specified limits.

(4) The readings of designated machines may be made from a printout or as observed from a visual display unit.

(5) The machines referred to in subsection (1) must be capable either wholly or partially in themselves of producing the readings concerned and not merely be receivers of information or data.

Photographic evidence

121. (1) Where a photograph is taken of a fishing or related activity and simultaneously the date and time and position from which the photograph is taken are superimposed upon the photograph then it shall be presumed unless the contrary is proved that the photograph was taken on the date, at the time and in the position so appearing.

(2) The presumption in subsection (1) arises only if

- (a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and
- (b) the instruments which provide the date, time and position are judicially recognised as being usually accurate or are designated machines or were checked as soon as possible after the taking of the photograph against the instruments.

(3) An authorised officer or observer who takes a photograph of the kind described in subsection (1) may issue a certificate with the photograph attached and state

- (a) the name, address, official position, country of appointment of the officer and the provision of the enactment under which the officer is appointed;
- (b) the name and call sign, if known, of any fishing vessel that appears in the photograph;
- (c) the names of the camera, watch or clock or other instruments, supplying the date and time and the position fixing instrument and a declaration that the officer checked those instruments a reasonable time before and after the taking of the photograph and, if necessary, in accordance with subsection (2) (b) and that they all appeared to be working correctly;
- (d) the matters set out in subsection (2) (a);
- (e) the accuracy of the fixing instrument used within specified limits; and
- (f) the maximum possible distance and the direction of the subject of the photograph away from the camera at the time the photograph was taken.

(4) Section 118 applies to a certificate issued under this section as if it had been a certificate issued under section 117 and any reference in the certificate to section 117 shall be read as a reference to this section.

Presumptions

122. (1) Any fish found on board a fishing vessel which has been used in the commission of an offence under this Act shall be presumed to have been caught during the commission of that offence, unless the contrary is proved.

(2) Where, in legal proceedings under this Act, the place in which an event is alleged to have taken place is in issue, the place stated in the relevant entry in the logbook or other official record of any enforcement vessel or aircraft as being the place in which the event took place shall be presumed to be the place at which the event took place, unless the contrary is proved.

(3) Prima facie evidence of an entry in a logbook or other official record of an enforcement vessel or aircraft may be given by the production of a written copy or extract of the entry certified by an authorised officer as a true copy or accurate extract.

- (4) Where in any legal proceedings relating to an offence under this Act,
- (a) an authorised officer gives evidence that the officer had reasonable grounds to believe that any fish to which the charge relates was taken in a specified area of the fishery waters; and
 - (b) the court considers that, having regard to that evidence the grounds are reasonable,

the fish shall be presumed to have been so taken, unless the contrary is proved.

- (5) Where in any legal proceedings for an offence under this Act,
- (a) an authorised officer gives evidence that the officer had reasonable grounds to believe that any fish to which the charge relates were taken by the use of driftnets; and
 - (b) the court considers that, having regard to the evidence, the grounds are reasonable;

the fish shall be presumed to have been so taken, unless the contrary is proved.

(6) Where information is given in respect of a fishing vessel under this Act or an access arrangement in relation to any fishing activity of a foreign fishing vessel, the information shall be presumed to have been given by the master, owner or charterer of the vessel concerned, unless it is proved it was not given by any of them.

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

Act 625

Fisheries Act, 2002

Onus of proof

123. (1) Where, in any proceedings under this Act, a person is charged with having committed an offence involving an act for which a licence, authorisation or other permission is required, the onus shall be on that person to prove that at the relevant time the requisite licence or authorisation or other permission was held by that person.

(2) Where a person is charged with the contravention of section 61(2) (b) of this Act, the onus shall be on that person to prove that the entry into the fishery waters was for a purpose recognised by international law.

(3) Where a person is charged with the contravention of section 128 of this Act, the onus shall be on that person to prove that the information given was true, complete and correct.

Destruction of evidence

124. A person who destroys or abandons any fish, fishing gear, net or other fish appliance, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid their seizure or the detection of an offence under this Act commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$1,000 and not exceeding \$100,000 in respect a local industrial or semi-industrial fishing vessel or a foreign fishing vessel; or
- (b) 50 penalty units and not exceeding 500 penalty units in any other case.

Liability of master and officers of companies

125. (1) Where an offence under this Act is committed by a person on board or employed on a fishing vessel, the master of the vessel shall also be deemed to have committed the offence.

(2) Where any offence under this Act is committed by a company or by any member of a partnership, firm or business, every director, manager, secretary or other officer of that company directly connected with the activity or any other member of the partnership or other person concerned with the management of the firm or business shall also be deemed to have committed the offence unless that officer proves to the satisfaction of the court that:

- (a) the officer used due diligence to secure compliance with the Act; and
- (b) the offence was committed without the knowledge, consent or connivance of the officer.

Continuing offence

126. Each day of a continuing contravention of a provision of this Act shall constitute a separate offence and a court before which a person is charged shall impose a penalty of not more than 1% of the relevant minimum penalty or a penalty, where applicable, within the maximum fine whichever is greater for each day the offence continues.

Banning order

127. (1) Where a person has been convicted of an offence under this Act, the court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years the person is banned from going on or remaining aboard a fishing vessel in the fishery waters.

(2) A person who contravenes an order made under subsection (1) and a master of a fishing vessel who has aboard a person the master knows is banned under subsection (1) commits an offence and each person is liable on summary conviction to a fine of not less than

- (a) \$10,000 and not exceeding \$100,000 in the case of local industrial or semi-industrial fishing vessel or of a foreign fishing vessel; or
- (b) 50 penalty units and not exceeding 500 penalty units in any other case;

or to imprisonment for a term not exceeding 12 months.

PART VI—MISCELLANEOUS PROVISIONS

Information documentation must be true, complete and correct

128. (1) Any information required to be recorded, notified, communicated or reported pursuant to a requirement of this Act shall be true, complete and correct.

(2) A licence, certificate, registration or other document required to be obtained under this Act shall be obtained and held in its original and correct form as required under this Act.

(3) A change of circumstances which has the effect of rendering the information or documentation false, incomplete or misleading shall be notified to the appropriate authority immediately.

(4) A person who contravenes subsections (1), (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding

- (a) \$100,000 in respect of a local industrial or semi-industrial fishing vessel or a foreign fishing vessel; or
- (b) 500 penalty units in any other case.

Wilful damage to fishing vessel, gear or other fishing appliance

129. A person who wilfully damages or destroys a fishing vessel, gear or other fishing appliance which belongs to another person is liable on summary conviction to a fine of not less than

- (a) \$50,000 and not exceeding \$2 million where the offender is or the offence is committed in respect of a local industrial or semi-industrial fishing vessel or foreign fishing vessel; or
- (b) 250 penalty units and not exceeding 1,000 penalty units in any other case

or to a term of imprisonment not exceeding 2 years or to both and in addition shall fully compensate the aggrieved person for the damage or destruction, in such sum as may be set by the court or, in the case of compounding, set by the Commission.

Import and export of fish, compliance with Exchange Control Act

130. (1) A person shall not import into or export from Ghana fish in commercial quantity, unless the person has been granted a permit by the Minister on the advice of the Commission.

(2) A permit granted under subsection (1) shall be in such form and be subject to such conditions as may be determined by the Minister.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$50,000 or more than \$1 million or the value of the fish in United States dollars, whichever is greater.

(4) Where by any permit or authorisation a person is permitted to export tuna or any other marine products originating from the country or the fishery waters, the person shall repatriate the foreign exchange obtained from the export in accordance with the Exchange Control Act, 1961 (Act 71).

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding three times the value of the export or not exceeding \$2 million whichever is greater or imprisonment for a term not exceeding 2 years.

Returns for import and export of fish or fish products

131. (1) A person who imports or exports fish or fish products shall furnish the Commission returns in respect of the species, quantity and value of the fish within one month of the import or export, in such form and details as may be directed by the Commission.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$1,000.

Transshipment to be supervised

132. (1) Unless authorised in writing by the Commission, no fishing vessel shall be used for transshipment of fish in the fishery waters without the supervision of an authorised officer or under such other arrangement and conditions as may be approved in advance by the Commission.

(2) The master, owner or charterer of a vessel used in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$100,000 and not more than \$2 million in respect of a foreign fishing vessel, or a local industrial or semi-industrial fishing vessel; or
- (b) 250 penalty units and not more than 1,000 penalty units in the case of a canoe

and in addition to the fine, all the fish and fish products on the vessel shall be confiscated to the State.

Licence, landing requirements for transshipment and export of tuna

133. (1) Unless otherwise provided in this Act, a person shall not tranship or export tuna in or from the fishery waters without

- (a) a licence or authorisation issued or granted by the Minister on the recommendation of the Commission; and
- (b) first landing all the tuna in Ghana.

(2) A person who acts contrary to subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$10,000 and not exceeding \$1 million.

(3) Regulations may be made to provide further for matters relating to tuna fishing.

Licensed fishing vessels prohibited from landing fish outside Ghana

134. (1) Unless otherwise authorised, the owner, master or operator of a fishing vessel registered in Ghana and licensed to fish in the fishery waters shall not land, tranship or discharge any fish outside Ghana, including the high seas.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$10,000 and not more than \$2 million in respect of a foreign fishing vessel or a local industrial or semi-industrial fishing vessel, or a fine exceeding 1,000 penalty units in the case of any other vessel, or three times the value of the catch, whichever is greater, and in addition the licence may be suspended or cancelled.

(3) Any person who aids and abets another person in the contravention of subsection (1) shall be deemed to have contravened that subsection.

Possession of prohibited fishing gear

135. (1) Except otherwise provided in this Act, a person shall not, without a permission in writing from the Commission, have in the possession or control of that person fishing gear which is prohibited for use in the fishery waters, unless the gear is located at least 2 kilometres inland from a shoreline.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than

- (a) \$5,000 and not more than \$500,000 in respect of a local industrial or semi-industrial vessel or a foreign fishing vessel; or
- (b) 50 penalty units and not more than 500 penalty units in any other case.

Research vessels

136. The Minister on the advice of the Commission may exempt in writing for the purposes of research or scientific investigation any vessel or person from all or any of the provisions of this Act and shall, in making the exemption, impose such conditions as the Minister thinks fit.

General penalty

137. A person who contravenes any mandatory provision of this Act for which no penalty is provided commits an offence and is liable on summary conviction to a fine not exceeding

- (a) \$500,000 where the offender is or the offence is committed in relation to a foreign fishing vessel;
- (b) \$100,000 where the offender is or the offence is committed in relation to a local industrial or semi-industrial fishing vessel; or
- (c) 500 penalty units in any other case

and in addition the catch, fishing gear or other apparatus or any combination of them involved in the commission of the offence may be forfeited and the fishing licence may be cancelled or suspended for a specified period.

Fines and forfeitures

138. (1) Notwithstanding the provisions of the Fines (Penalty Units) Act, 2000 (Act 572) and any other enactment, fines in this Act in respect of foreign fishing vessels and local industrial and semi-industrial fishing vessels are expressed in United States dollars but may be paid in cedis equivalent except that where the payment relates to a foreign fishing vessel the amount shall be paid in United States dollars.

(2) Fines paid in cedis shall be based at the official Bank of Ghana exchange rate between the cedi and the United States dollar on the date of payment.

(3) Any property forfeited under this Act or Regulations made under it, shall vest in the State and money realised from the sale of forfeited property shall be paid into the Fishery Fund established under section 36 of this Act.

Regulations

139. (1) The Minister may, on the recommendations of the Commission by legislative instrument make Regulations

- (a) prescribing measures for the conservation, management, development, licensing and regulation of fisheries or any particular fishery, including total allowable catch and quota system as the Minister considers appropriate;
- (b) for licensing any vessel or class or category of vessels to be used for fishing and related activities or any other purpose pursuant to this Act;

- (c) for licensing or registration of fishing gear and other equipment or devices used for fishing;
 - (d) prescribing the types and sizes of fishing gears and other fishing devices including the sizes of fishing nets that may be used for fishing, where they may be used and prohibited fishing nets;
 - (e) in respect of the manufacture, importation and sale of fishing nets;
 - (f) indicating landing requirements for any vessel or class or category of vessel or licence;
 - (g) on catching, loading, landing, handling, transshipping, transporting, possession and disposal of fish;
 - (h) relating to tuna fishing or any specified specie of fish;
 - (i) on the importation, export, distribution and marketing of fish and fish products;
 - (j) on the licensing, control and use of fish aggregate devices and the rights to the aggregated fish, and prescribing times and the minimum distance from such devices that any vessel may fish;
 - (k) prescribing standards and measures for the safety of artisanal fishing;
 - (l) prescribing matters relating to satellite monitoring of fishing activities;
 - (m) relating to aquaculture;
 - (n) relating to recreational fishing;
 - (o) relating to canoe fishing including markings and identity of canoes;
 - (p) requiring the provision of statistical and other information related to fisheries;
 - (q) relating to the control, inspection and conditions of operation of fish processing establishments;
 - (r) on returns concerning fishing operations required to be submitted to the Commission by licensees;
 - (s) on licences and logbooks to be carried on board motor fishing vessels;
 - (t) for further conditions for fishing licences;
 - (u) prescribing conditions for the approval of charter agreements; and
 - (v) generally for the achievement of the purposes of this Act.
- (2) The Minister for Transport and Communications in consultation with the Commission may make Regulations providing for the
- (a) examination and certification of skippers, second hands and engineers of fishing vessels;
 - (b) survey, registration and licensing of fishing vessels; and
 - (c) safety and marine radio equipment to be installed in motor fishing vessels.

- (3) Regulations made under subsection (1) may
- (a) impose in respect of any contravention of any provision of the Regulation a fine not exceeding \$1 million in respect of local industrial or semi-industrial fishing vessels and foreign fishing vessels and a minimum fine of \$200 in the case of a continuing offence for each day the offence is continued;
 - (b) impose a fine not exceeding 500 penalty units for contravention of any of the Regulations by a canoe or other artisanal operator; and
 - (c) provide that the catch, fishing vessel, fishing gear or apparatus or other item involved in the contravention may be forfeited.

Interpretation

140. In this Act, unless the context otherwise requires,

- “access arrangement” means a treaty, agreement or arrangement entered into under section 64;
- “agent” means any person or unit appointed by the Commission to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 67;
- “aquaculture” means any activity designed to cultivate or farm fish and other living aquatic resources;
- “artisanal fishing” means the traditional canoe fishing carried on by a citizen;
- “authorised officer” means any person appointed as such under section 95;
- “beneficially owned” means for one’s own benefit and not as trustee or agent;
- “canoe” means any planked, dugout or fabricated vessel which is propelled by means of sails, oars, paddles, poles, outboard engine or a combination of any of them;
- “canoe support vessel” means a vessel which has entered into a contractual agreement with a group of canoes to fish for the vessel;
- “carrier vessel” means a vessel that carries fish that has been fished by other vessels but does not fish itself;
- “citizen” means a citizen of Ghana;
- “closed season” means a period during which a ban is placed on fishing activities in respect of type of fish, area, zones, method of capture or any parameters specified in the notice;
- “coastal waters” means that part of the fishery waters lying seaward from the baseline from which the territorial sea extends;
- “commercial fishing” means any fishing resulting or intending or appearing to result in the sale or trade of any fish which may be taken, caught

- or harvested during the fishing operations, and does not include recreational fishing;
- “competent authority” means the body or person vest with authority for the purpose concerned;
- “Director” means the Director of Fisheries;
- “driftnet” means a net laid out in the sea or river with or without markers or floats or both designed or intended, whilst drifting in the prevailing current or tide, to entangle fish;
- “driftnet fishing activities” includes fishing with the use of a driftnet and any related activities including transporting, transshipping and processing any driftnet catch, and provision of food, fuel and other supplies for vessels used or outfitted for driftnet fishing;
- “drifting gear” means nets that drift or move at their set depth, on or near the surface under wind or current action;
- “effort” means in relation to fishing, the time involved and frequency exercised in fishing activities;
- “Exclusive Economic Zone (EEZ)” means that area beyond and adjacent to the territorial sea which does not extend beyond two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured;
- “farming” in relation to any fish or other marine vegetation, means the breeding, cultivating and rearing of any such fish or the cultivating of aquatic vegetation, as the case may be;
- “fish” means any living aquatic organism, plant or animal, and includes any fin-fish, shellfish, coral, reptile and marine mammal, but does not include aquatic birds;
- “fish aggregating device” means any man-made or partly man-made floating or semi-submerged device, or directly placed natural materials, whether anchored or not, intended for the purpose of aggregating fish, and includes any natural floating object on which a device has been placed to facilitate its location;
- “fish processing” means any process that adds value to or preserves the fish and includes the dismembering, cleaning, sorting, loining, freezing, canning, salting and any other process of preserving fish;
- “fish processing establishment” means any place other than a licensed fishing vessel where fish is canned, dried, gutted, salted, iced, chilled, frozen, smoked or otherwise processed for sale by wholesale in or outside the country;
- “fishery” or “fisheries” means one or more stocks of fish or any operations based on such stocks which can be treated as a unit for purposes of

conservation and management, taking into account geographical, scientific, technical, cultural, economic, recreational and other relevant characteristics;

“fishery plan” means a plan for the management, development and conservation of fish;

“fishery waters” includes all waters over which the Republic has fisheries jurisdiction or sovereign rights, including riverine systems, internal waters, territorial sea and Exclusive Economic Zone and any other waters over which fisheries jurisdiction may be claimed from time to time;

“fishing” means—

- (a) searching for, catching, taking or harvesting fish;
- (b) the attempted searching for, catching, taking or harvesting of fish;
- (c) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
- (d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons;
- (e) any operation at sea in support of or in preparation for any activity within the meaning of this heading; or
- (f) the use of an aircraft in relation to any activity described in this paragraph;

“fishing gear” means any equipment, implement or other thing that can be used in the act of fishing, whether or not it is used in connection with a vessel, including any fishing net, rope, line, float, trap, hook, winch, boat or aircraft;

“fishing licence” includes fishing right;

“fishing vessel” means any vessel, boat, ship or other craft which is used for, equipped to be used for or of a type that is normally used for—

- (a) fishing;
- (b) the processing or storage of fish or fish products;
- (c) the supply or support of vessels used for purposes described in paragraphs (a) or (b);
- (d) the transportation of fish or fish products from the fishing grounds;

or related activities, including a canoe, motor fishing vessel and ancillary vessel, but does not include any vessel used for the transportation of fish or fish products to or from a port of Ghana as a part of its general cargo;

- “fixed fishing gear” means fishing gear deposited on or attached directly or indirectly to the water bed, and includes fish traps, fishing stakes and anchored gill nets;
- “foreign fishing vessel” means any fishing vessel other than a local industrial or semi-industrial fishing vessel or a canoe;
- “Fund” means the Fisheries Development Fund established under section 36;
- “Government” means the Government of the Republic of Ghana;
- “GRT” means gross registered tonnes;
- “industrial fishing vessel” means motor fishing vessel equipped with hydraulic equipment and using industrial gears;
- “Inshore Exclusion Zone (IEZ)” means that area of the fishery waters described in section 81 (1) of this Act;
- “large local semi-industrial vessel” means a local semi-industrial vessel of a length of 10 metres or above;
- “length” in relation to a vessel means the overall length from bow to stern;
- “licenced fishing vessel” means a fishing vessel specified in a valid fishing licence;
- “local fishing licence” means any fishing licence issued under this Act in respect of a local industrial or semi-industrial fishing vessel and a licence for a canoe;
- “local fishing vessel” means any fishing vessel as described in section 47 or 52 (2) and includes artisanal and motor vessels;
- “marine reserve” means any reserve established in the fishery waters in accordance with this Act;
- “master” in relation to any fishing vessel, means the person for the time being in command or apparently in charge of that vessel;
- “Minister” means the Minister with responsibility for fisheries;
- “Ministry” means the Ministry for the time being charged with responsibility for fishery;
- “moving gear” means a fishing gear dragged, towed or moved by any means for the purpose of fishing;
- “motor fishing vessel” means any fishing vessel other than a canoe which is, at relevant times, constructed or adapted for the purpose of fishing and equipped with one or more inboard engines for the purpose of moving through water;
- “operator” means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master;
- “overfishing” means operating a fishery beyond the level of exploitation necessary to ensure sustainable yield of the fishery resources;

“owner” in relation to a fishing vessel, means any person exercising or discharging or claiming the right of accepting the obligation to exercise or discharge any of the powers or duties of an owner whether on his own behalf or on behalf of another and includes a person who is the owner jointly with any other person or persons and any manager, director or secretary of any body corporate or company, but does not include any person in possession under a charter-party;

“qualified company” means a company or partnership

- (a) registered under the Companies Code, 1963 (Act 173) or with its principal place of business in Ghana; and
- (b) the shares in which are beneficially owned wholly by the Government, a citizen, a public corporation or an association of any of them;

“recreational fishing” means any fishing done for leisure and not for the purpose of subsistence, barter or sale of fish;

“related activities” includes doing, attempting or preparing to do or having done any of the following—

- (a) transshipment;
- (b) storing, processing or transporting fish taken from the fishery waters up to the time the fish is first landed; or
- (c) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;

“Republic” means the Republic of Ghana;

“riverine system” means a natural drainage system comprising rivers and their tributaries which originate from the sources and terminate at their estuaries, and includes any lagoon, lake, impoundment, dam or weir artificially created on the riverine system;

“seaworthiness” means the fitness of a vessel with reference to the condition of its hull and machinery, the extent of its fuel and provisions, supply, the quality of its officers and crew, and its adaptability for the type of voyage proposed;

“small local semi-industrial vessel” means a local fishing vessel of a length below 10 metres;

“seine” means fishing gear in the form of a net which is used to capture fish by surrounding them and pulling them vertically or horizontally from the water, and includes beach seine, purse seine and ring nets;

“semi-industrial vessel” means a motor fishing vessel powered by an inboard engine, and excludes artisanal fishing vessels and industrial vessels as defined in this section;

“sustainable yield” means the quantity of fish that can be taken from the resource from year to year without any danger of collapse or stock depletion;

“support vessel” means any vessel carrying out operations in connection with and support of a fishing vessel, including supply and other fishing activities;

“surveillance officer” includes any authorised officer of a vessel or aircraft used for the enforcement of this Act;

“towing gear” means fishing gear with a bag or cod-end which is towed at the bottom or mid-water by a motor fishing vessel and used for the purpose of taking fish;

“transhipment” means transferring any fish or fish products to or from any vessel, whether or not the fish has first been taken on board the vessel from which the fish is passed;

“trial fishing operations” means any fishing operations undertaken over a limited period of time by virtue of section 65 for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of fishing operations locally or in the region of the operations;

“tuna” includes tuna-like species of fish and sharks; and

“vessel” means a fishing vessel.

Repeal and Saving

141. (1) The Fisheries Law 1991 (PNDCL 256) other than Part I, (Building and Importation of motor fishing vessels) and the Fisheries Commission Act, 1993 (Act 457) are hereby repealed.

(2) Notwithstanding the repeal under subsection (1) any Regulation, notice, licence, certificate, permit, or other authorisation made, given, or issued under any of the repealed enactment shall unless inconsistent with this Act, continue to have effect as if made, given or issued under this Act.

(3) Tuna vessels which on the commencement of this Act, hold valid licences issued under the repealed enactment shall comply with section 47(1)(b) of this Act within six months of the coming into force of this Act.

(4) The Fisheries Commission in existence at the commencement of this Act shall upon the appointment of the members of the Commission under this Act cease to exist.

(5) Upon the coming into force of this Act the Fisheries Department of the Ministry of Food and Agriculture shall constitute a secretariat of the Commission established under section 1 of this Act.

(6) All rights, assets, property, obligations, liabilities and staff of the Fisheries Department of the Ministry of Food and Agriculture and the Fisheries Commission in existence immediately before the coming into force of this Act are hereby transferred to the Commission established under section 1 of this Act.

Act 625

Fisheries Act, 2002

SCHEDULE

Section 81 (1)

Area of Inshore Economic Zone

The coastal waters between the coastline and the 30-metre isobath or the 6 nautical miles offshore limit whichever is farther.

Date of *Gazette* notification: 17th May, 2002.