

**GUYANA**

**BILL NO. 2002**

**ARRANGEMENT OF SECTIONS**

**SECTION**

**PART 1 PRELIMINARY**

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

**PART II FISHERIES MANAGEMENT AND DEVELOPMENT**

3. Promotion of fisheries.
4. Appointment of officers.
5. Fisheries plans.
6. Fisheries Advisory Committee.
7. Functions of the committee.
8. Remuneration of members of the committee.

**PART III REGISTRATION OF FISHING VESSELS-LOCAL AND FOREIGN**

9. Fishing vessels to be registered.
10. Register of local fishing vessels.
11. Change of ownership to be notified.
12. Fisheries officer's powers to inspect fishing vessels.

#### **PART IV LOCAL FISHING LICENCES**

13. Local fishing vessel licences.
14. Commercial fisher's licences.
15. Resolution of fishing disputes.

#### **PART V FOREIGN FISHING**

16. Regional co-operation in fisheries.
17. Fisheries access agreements.
18. Foreign fishing vessel licences.

#### **PART VI PROVISIONS APPLICABLE TO BOTH FOREIGN AND LOCAL FISHING VESSELS**

19. Validity of fishing licences
20. Conditions of fishing licences
21. Notice.
22. Cancellation and suspension of fishing licences.
23. Controls over sale of fish taken in the course of sport fishing or fisheries related research and survey operations.
24. Fisheries related research or survey operations.
25. Test fishing operations.

#### **PART VII**

#### **FEES, ROYALTIES, ETC.**

26. Fees, royalties and other charges.

## **PART VIII MARINE RESERVES AND FISHING PRIORITY AREAS**

- 27. Marine reserves.
- 28. Fishing priority areas.

## **PART IX PROHIBITED FISHING METHODS, POSSESSION OF PROHIBITED FISHING GEAR, AND STOWAGE OF FISHING GEAR**

- 29. Prohibited fishing methods.
- 30. Possession of prohibited fishing gear.
- 31. Stowage of fishing gear.

## **PART X HIGH SEAS FISHING**

- 32. Purpose and application.
- 33. Regulation of fishing in areas beyond national jurisdiction.
- 34. Application for high seas fishing permit.
- 35. Fees.
- 36. Conditions.
- 37. Validity.
- 38. Cancellation and suspension.
- 39. Unauthorised fishing.
- 40. Powers and duties of the Chief Fisheries Officer.
- 41. Powers to authorise enforcement measures.
- 42. Action against vessel undermining international conservation measures.
- 43. Inspection measures.
- 44. Enforcement measures.
- 45. Master deemed to have committed offence.

## **PART XI FISH PROCESSING ESTABLISHMENTS**

- 46. Fish processing establishments.

## **PART XII IMPORT AND EXPORT OF FISH**

- 47. Import and export of fish.

## **PART XIII ENFORCEMENT AND JUDICIAL PROCEEDINGS**

- 48. Powers of authorised officers.
- 49. Powers of authorised officers beyond limits of national jurisdiction.
- 50. Seizure of fishing vessels.
- 51. Seizure of vehicle or aircraft.
- 52. Immobilisation of fishing vessel, vehicle or aircraft.
- 53. Assaulting, obstructing etc authorised officer or observer.
- 54. Identification of authorised officers and observers.
- 55. Protection of authorised officers and observers.
- 56. Destruction of evidence.
- 57. Security, release and forfeiture of detained property.
- 58. Disposal of seized fish and other perishables.
- 59. Treatment of persons arrested, vessels and other things detained or seized.
- 60. Application of bond, etc.
- 61. Liability for loss, damage or deterioration of items in custody.
- 62. Removal of items in custody.
- 63. Court's power of forfeiture.
- 64. Onus of proof.

- 65. Disposal of vessel etc. forfeited.
- 66. Offences triable as if committed within local jurisdiction.
- 67. Immunity of authorised officers.
- 68. Certificate of evidence.
- 69. Certificate as to cause of death.
- 70. Validity and procedures for certificates.
- 71. Certificates concerning international conservation measures, boundaries, etc.
- 72. Certificate as to the location of a vessel.
- 73. Designated machines.
- 74. Photographic evidence.
- 75. Observer devices.
- 76. Presumptions.

#### **PART XIV GENERAL**

- 77. Liability of master.
- 78. Power to compound offences.

#### **PART XV REGULATIONS**

- 79. Regulations.

#### **PART XVI MISCELLANEOUS**

- 80. Exemptions.
- 81. Prosecution and other penalties, civil proceedings.
- 82. Repeals.
- 83. Savings.

**A BILL**

**INTITULED**

AN ACT to provide for the promotion, management, and development of fisheries and for matters connected therewith.

**A.D. 2002**

Enacted by the Parliament of Guyana

**PART I  
PRELIMINARY**

**Short title and commencement.**      **1**      This Act may be cited as the Fisheries Act 2002 and shall come into operation on such date as the Minister may, by Order, appoint and different dates may be appointed for different provisions of this Act.

**Interpretation and application .**      **2.(1)**      In this Act -

(a)      "authorised officer" means any fisheries officer or any other person or category of persons designated as authorised officers by the Minister under section 4;

(b)      "Chief Fisheries Officer" means the person appointed as Chief Fisheries Officer under section 4;

(c)      "commercial fisher's licence" means a commercial fisher's licence issued under section 14;

(d)      "Compliance Agreement" means the Agreement to which Guyana is a signatory to Promote Compliance with International Conservation and

Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on 24<sup>th</sup> November, 1993;

- (e) "FAO" means the Food and Agriculture Organization of the United Nations;
- f) "fish" means any aquatic animal, whether piscine or not, and includes any shellfish, turtle, mollusc, crustacean, coral, sponge, echinoderm, holothurian, its young and its eggs;
- (g) "fish processing establishment" means any land, premises or other place on or in which fish are dried, gutted, salted, iced, chilled, frozen, canned or otherwise processed for sale by wholesale within or outside Guyana;
- (h) "fisheries officer" means the Chief Fisheries Officer, Fisheries Officers, or Assistant Fisheries Officers and any other officer appointed under section 4;
- (i) "fishery" means one or more stocks of fish or fishing operations based on such stocks which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational and economic characteristics;
- (j) "fisheries plan" means the plan for the management and development of fisheries prepared under section 5;

**No. 10 of 1977.**

- (k) "fisheries waters" means the territorial sea, the exclusive economic zone, the fishery zone and all internal waters as defined in the Maritime Boundaries Act 1977 and such other waters in respect of which Guyana exercises jurisdiction for fisheries purposes";
- (l) "fishing" has the same meaning assigned to it in section 2 of the Maritime Boundaries Act, 1977;
- (m) "fishing licence" means a foreign fishing vessel licence, a local fishing vessel licence or a commercial fisher's licence;
- (n) "fishing vessel" means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for
  - (i) fishing; or
  - (ii) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including but not limited to, preparation, supply, storage, refrigeration, transportation or processing;
- (o) "Fish Stocks Agreement" means the Agreement to which Guyana is a party for the Implementation of the United Nations Convention on the Law of the Sea of 10<sup>th</sup> December, 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted at New York on 4<sup>th</sup> August 1995;
- (p) "foreign fishing vessel licence" means a licence issued in respect of a foreign fishing vessel under section 18;



- (q) "foreign fishing vessel" means any fishing vessel other than a local fishing vessel;
- (r) "high seas" means the waters beyond the territorial sea or exclusive economic zone (or other zone of extended fisheries jurisdiction) of any State, to the extent that such territorial sea or exclusive economic zone (or other zone of extended fisheries jurisdiction) is recognised by Guyana;
- (s) "high seas fishing permit" means any permit issued under section 6;
- (t) "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention of the Law of the Sea, and that are recognized by Guyana.
- (u) "length" means -
- (a) for any fishing vessel of Guyana built after 18<sup>th</sup> July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater, except that in ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and
- (b) for any fishing vessel of Guyana built before 18<sup>th</sup> July 1982, registered length as entered on the vessel's documentation;
- (v) "licence" means a licence issued under this Act;
- (w) "local fishing company" means any company incorporated or continued under

the Companies Act 1991 and having its principal place of business in Guyana-

(a) of which all of the shares are owned by citizens of Guyana or by any fishers' co-operative society, fishers' association or other such society of which all the members are citizens of Guyana; or

(b) which, in view of the substantial nature of the participation by Guyana citizens in the shareholding of the company or other benefits accruing to Guyana, has been designated by the Minister by notice published in the Gazette as being a local fishing company for the purposes of this Act;

(x) "local fishing vessel licence" means a licence issued in respect of a local fishing vessel under section 13;

(y) "local fishing vessel" means any fishing vessel which is-

(i) wholly owned by the State or by a public corporation established by or under the law of Guyana;

(ii) wholly owned by one or more natural persons who are citizens of Guyana;  
or

(iii) wholly owned by a local fishing company or a fishers' co-operative society, fishers' association or other such society or association of persons established under the law of Guyana;

(z) "locally based foreign fishing vessel" means any foreign fishing vessel based

in Guyana which lands all its catch in Guyana;

(2)(a) "authorized officer", "foreign authorized officer", "national authorized officer" or "observer" means a person appointed as such by the Minister;

(b) "master" means the person or persons having control of a fishing vessel at any given time;

(c) "Minister" means the Minister assigned responsibility for fisheries;

(d) "ornamental fish" includes a fish of beauty or rarity;

(e) "prescribed" means prescribed by the Minister by regulations;

(f) "prohibited fishing gear" in relation to any fishery in an area means-

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

(ii) any trap or other fishing gear which does not conform to any standards prescribed for that type of trap or other fishing gear for the fishery in that area; or

(iii) any other net or fishing gear which is prohibited by any regulations made under this Act for a fishery in that area;

(g) "related activities" in relation to fishing means-

- (i) trans-shipping fish to or from any vessel, whether or not, for the purpose of sale or barter;
  - (ii) storing, processing or transporting fish taken from the fisheries waters up to the time it is first landed;
  - (iii) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;
  - (iv) the use of an aircraft in relation to any activity described in this paragraph;  
or
  - (v) attempting or preparing to do any of the above;
- (h) "Sub-regional or Regional Fisheries Management Organisation" means a Sub-regional or Regional Fisheries Management Organisation or arrangement established or designated pursuant to Part III of the Fish Stocks Agreement and which is recognised by Guyana;
- (i) "test fishing operations" means any fishing operations undertaken over a limited period of time with the approval of the Chief Fisheries Officer under section 25 for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of locally based fishery operations.
- (3) The Minister responsible for Health shall through the officers of his Ministry –

- (i) carry out sanitary inspections of vessels and provide certification therefore;
  - (ii) carry out inspections of landing sites and provide certification therefore;
  - (iii) carry out inspections of means of transport of fishery products;
  - (iv) carry out inspections, monitoring and certification of fish preparation or processing establishments including chill and cold rooms;
  - (v) carry out inspections and certification of sea and air ports;
  - (vi) issue Export Health Certificates for the export of fish and fishery products;
  - (vii) establish an environmental monitoring programme for fishery products caught in their natural environment and the aquaculture monitoring programme for the detection of residues of veterinary medicinal products in aquaculture products.
- (4) This Act has extra-territorial application according to its tenor and any court of Guyana in which an offence under this Act, or any regulation made under it, is tried shall have jurisdiction for the purpose of this Act.

## **PART II FISHERIES MANAGEMENT AND DEVELOPMENT**

### **Promotion of fisheries.**

3. The Minister or the Chief Fisheries Officer, as the case may be, may take such measures as he thinks fit to promote the management and sustainable development of fisheries so as to ensure the optimum utilisation of fisheries resources in the fisheries waters for the benefit of Guyana, and in so doing shall promote precautionary approaches to fisheries management, as well as the need to conserve fisheries resources for future generations.

**Appointment of officers.**

4.(1) There shall be appointed a Chief Fisheries Officer, Fisheries Officers, Assistant Fisheries Officers and such other fisheries officers and authorised officers as may be necessary to give effect to this Act.

(2) The following persons shall also be fisheries officers for the purposes of this Act-

- (a) members of the Guyana Defence Force;
- (b) members of the Police Force;
- (c) officers of the Customs and Trade and Administration of the Revenue Authority; and
- (d) such other persons as the Minister may, by notification in the Gazette, appoint.

(3)The Minister may, by notice in the Gazette, designate any person or class of persons who are members of the enforcement authority of a foreign State or of any regional or subregional fisheries management organisation, to be a foreign authorised officer for the purposes of this Act.

(4)Where the Minister designates members of the enforcement authority of a foreign State or of a subregional or regional fisheries management organisation to be authorised officers for the purpose of this Act, the Minister shall also specify whether the powers of such persons under this Act shall also apply within the fisheries waters.

**Fisheries plans.**

5. (1) The Chief Fisheries Officer shall progressively prepare and keep under review plans for the management and development of significant exploitable fisheries in the fisheries waters.

(2) Each fisheries plan shall include-

- (a) an identification of the fishery to which it applies and an assessment of the present state of its exploitation;
- (b) where appropriate, a statement of the objectives to be achieved in the management and development of the fishery;
- (c) specification of any management and development measures to be taken;
- (d) an indication of the main requirements for statistical information on the fishery and the means to be used to obtain such information;
- (e) specification, where appropriate, of any licensing programmes to be followed for the fishery, any limitations to be applied to local fishing operations and the amount of fishing, if any, to be allocated to foreign fishing vessels; and
- (f) specification, where appropriate, of the measures that are necessary to ensure that the fisheries plan can be harmonised with fisheries plans or licensing laws or policies of States in the subregion or region, particularly in respect of shared or straddling fish stocks and highly migratory fish stocks.

(3) In the preparation and review of each fisheries plan, the Chief Fisheries Officer shall consult with the local fishermen, local authorities, other persons affected by the fisheries plan and with any Fisheries Advisory Committee appointed under section 6.

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

**Fisheries Advisory Committee.**

6.(1) The Minister may appoint a Fisheries Advisory Committee to advise on the management and development of fisheries, with the objective of ensuring the optimum utilization of the fisheries resources of the fisheries waters of Guyana for the benefit of the people of Guyana.

(2) Any Committee appointed under this section shall include the Chief Fisheries Officer and such other persons as the Minister may consider capable of advising him on the management and development of fisheries.

(3) The names of the members of the Committee as first constituted and every change in the membership of the Committee shall be published in the Gazette.

(4) The Minister may prescribe the procedure of the Committee, including the frequency of meetings, and the quorum for its meetings.

(5) Subject to any regulations made under subsection (4), the Committee may determine its own procedure.

**Functions of the committee.**

7. The functions of the Committee shall be to advise the Minister on -

- (a) fisheries management and development;



- (b) any aspect of a fisheries plan;
- (c) any proposals under this Act for subregional or regional co-operation with respect to fisheries, fisheries agreements, joint ventures, or development projects in the fisheries sector;
- (d) such other matters as may be referred to it by the Minister.

Remuneration of members of the committee.

8. There shall be paid to the members of the Committee such remuneration or allowances, if any, as may be determined by the Minister.

### **PART III REGISTRATION OF FISHING VESSELS - LOCAL AND FOREIGN**

Fishing vessels to be registered.

9. (1) After thirty days from the commencement of this Act every owner of a local fishing vessel which is used or intended to be used for fishing in the fisheries waters, shall, before such vessel is put to sea, be the holder of a valid certificate of registration in respect of such fishing vessel.

(2) Application for a certificate of registration shall be made in the prescribed form on behalf of the owner to the Chief Fisheries Officer.

(3) A certificate of registration shall not be issued unless the Chief Fisheries Officer is satisfied that the fishing vessel to which the application refers is seaworthy and fit for the purpose of fishing.

(4) The Chief Fisheries Officer, or any person authorized by him in writing, may, on application therefor and on payment of the prescribed fees, issue a certificate of

registration in the prescribed form in respect of a local fishing vessel.

(5) The Minister may by Order exempt any owner or class of owners from the provisions of subsection (1) and such exemption may be general or subject to such conditions as the Minister may specify.

(6) Where a fishing vessel is put to sea without there being a valid certificate of registration in respect of it, or in respect of which an Order made under subsection (5) does not apply, the master, owner, and the charterer, each commits an offence and shall be liable upon summary conviction to a fine not exceeding fifty thousand dollars.

**Register of fishing vessels.**

10. (1) The Chief Fisheries Officer shall keep a Register of every fishing vessel in respect of which there is in existence a valid certificate of registration and shall cause to be entered therein from time to time the particulars of ownership and the place of mooring or beaching of every such fishing vessel and such other particulars as may be prescribed in respect of such fishing vessel.

(2) The contents of the Register shall be prima facie evidence of the facts contained therein in any proceedings under this Act.

(3) The register shall be made available to interested persons during working hours.

**Change of ownership to be notified.**

11. (1) On the change of ownership, whether by sale or otherwise, of a fishing vessel in respect of which a valid certificate of registration is in existence, the registered owner and the new owner of such fishing vessel shall, within thirty days of such change of ownership, notify the Chief Fisheries Officer of the change of ownership (stating the name and address of the new owner or owners and the date of change of possession).

(2) Upon change of ownership the registered owner shall return to the Chief Fisheries Officer the certificate of registration issued for such fishing vessel for cancellation. The Chief Fisheries Officer shall, subject to this Act, issue to the new owner of the fishing vessel a new certificate of registration.

Fisheries officer's powers to inspect local fishing vessels.

12. (1) The Chief Fisheries Officer may at any time inspect without notice any local fishing vessel for the purpose of satisfying himself that such fishing vessel is being maintained in a sea-worthy condition.

(2) Where on an inspection pursuant to subsection (1), the Chief Fisheries Officer is satisfied that the fishing vessel is not seaworthy or is otherwise unfit for the purpose of fishing, he may cancel the certificate of registration of that fishing vessel and that fishing vessel shall thereupon be deemed to be not registered and shall be removed from the Register of fishing vessels kept by the Chief Fisheries Officer.

(3) The registration of a fishing vessel in accordance with this Part does not relieve the owner, master or charterer of any obligations arising under any other law.

#### PART IV LOCAL FISHING LICENCES

Local fishing vessel licenses.

13. (1) No local fishing vessel shall be used for fishing or related activities in the fisheries waters without a valid licence issued under this section in respect of that vessel.

(2) Subsection (1) shall not apply to any local fishing vessel used solely for the purpose of fisheries related research or survey operations.

(3) An application for a local fishing vessel licence or for the renewal of a local fishing

vessel licence shall be made in the prescribed form to the Chief Fisheries Officer.

(4) Subject to subsection (5), the Chief Fisheries Officer may issue a local fishing vessel licence in the prescribed form.

(5) No local fishing vessel licence shall be issued or renewed in respect of any local fishing vessel unless-

(a) an application has been made in accordance with subsection (3);

(b) the vessel has been registered in accordance with section 9 and such registration has not been cancelled under subsection (2) of section 12; and

(c) any fees payable in respect of the licence have been paid.

**Commercial fisher's licences.**

14. (1) No person shall fish in the fisheries waters without a valid commercial fisher's licence issued under this section.

(2) Subsection (1) shall not apply to any person fishing solely in the course of fisheries related research or survey operations, nor to any person on board a foreign fishing vessel licensed to fish under section 18.

(3) Application for a commercial fisher's licence shall be made to the Chief Fisheries Officer in the prescribed form.

(4) Subject to subsection (5) the Chief Fisheries Officer may issue or renew a commercial fisher's licence.

(5) No commercial fisher's licence shall be issued or renewed in respect of any person

unless-

(a) an application has been made in accordance with subsection (3); and

(b) any fees payable in respect of the licence have been paid.

(6) Any person who fishes in contravention of subsection (1) or of any condition of a commercial fisher's licence commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred thousand dollars.

**Resolution of fishing disputes.**

15. (1) Where a fishing dispute arises between two or more individuals or groups in regard to the right to fish in a particular locality, or in regard to the time or manner of fishing in any part of the fisheries waters, such dispute may be referred to the Chief Fisheries Officer.

(2) Where a fishing dispute has been referred to the Chief Fisheries Officer he may-

(a) deal with the dispute in accordance with subsection (3);

(b) refer it to an arbitrator or arbitrators for decision, in accordance with subsection (3); or

(c) appoint a conciliator or a committee of conciliators, not exceeding three, to enquire into the dispute who shall make recommendations to the parties to the dispute regarding its solution.

(3) A decision of the Chief Fisheries Officer or of an arbitrator or group of arbitrators appointed by him may include a determination that a particular area or areas shall be

reserved for particular methods of fishing only, or that only particular types of boats or groups of individuals may fish within such areas.

(4) Where a dispute has been referred to an arbitrator or arbitrators, any party aggrieved by the decision may appeal to the Minister within sixty days of the decision being made.

(5) A decision which has not been appealed against under subsection (4) shall be final and shall not be called into question in any civil court and shall be enforced in the same manner as if the decision were a judgment of the High Court in exercise of its civil jurisdiction.

(6) Any person who fails to comply with a decision rendered final by virtue of subsection (5), commits an offence and is liable to a fine not exceeding one hundred and twenty thousand dollars.

(7) The proceedings before a conciliator or a committee of conciliators shall be conducted in public, and participation by the parties shall be voluntary.

(8) Subject to any regulations made under section 79 the conciliator or a committee of conciliators shall determine its own procedure.

(9) Where a committee of conciliators is appointed, it shall appoint one of its members to act as chairman.

(10) The role of the conciliator or of a committee of conciliators shall be to assist the parties to settle the dispute between them, and to recommend, where necessary, to the Minister the measures required to prevent a recurrence of the dispute.

(11) If the parties do not accept the recommendations of the conciliator or of the committee of conciliators, the conciliator or the committee may refer the dispute to the Minister for decision by him.

## **PART V FOREIGN FISHING**

### **Regional co-operation in fisheries.**

16. (1) The Minister may enter into arrangements or agreements with other countries in the region or with any competent sub-regional, regional or global organisation with the purpose of promoting regional co-operation in fisheries.

(2) Arrangements or agreements referred to in subsection (1) may concern but are not limited to the harmonisation of systems for collecting statistics, carrying out surveys for assessing the state of the fishery resources, harmonisation of licensing procedures regarding foreign fishing vessels, and co-operation in enforcement measures in respect of foreign fishing vessels.

### **Fisheries access agreements.**

17. (1) The Government may enter into access agreements with other states and with associations representing foreign fishing vessel owners or charterers, providing for the allocation of fishing rights to vessels from those states or associations.

(2) The fishing rights allocated under agreements entered into under this section shall not exceed the total resources or amount of fishing allowed to the appropriate category of foreign fishing vessels under the appropriate fisheries plan.

(3) Any agreement entered into under this section shall include a provision establishing the responsibility of the foreign state or association to take necessary measures to ensure compliance by its vessels with the terms and conditions of the agreement and

with the laws relating to fishing in the fisheries waters.

(4) For the purpose of this section and section 16, the term "State" shall include any regional organisation to which the power to negotiate access agreements has been delegated by the member countries of that organization.

**Foreign fishing vessel licences.**

18. (1) No foreign fishing vessel shall be used for fishing or related activities in the fisheries waters without a valid foreign fishing vessel licence issued under this section.

(2) Subsection (1) shall not apply to any foreign fishing vessel used purely for the purpose of fisheries related research operations.

(3) An application for a foreign fishing vessel licence shall be made, in the prescribed form, to the Minister.

(4) Subject to this Act and any regulations made thereunder, the Minister may issue a foreign fishing vessel licence in the prescribed form authorising a foreign fishing vessel to be used in the fisheries waters for such fishing or related activities as may be specified in the licence.

(5) Subject to subsections (6) and (7), no foreign fishing vessel licence shall be issued to any foreign fishing vessel unless there is in force with the Government of the flag state of the vessel or with an association of which the owner or charterer is a member, an access agreement to which the Government of Guyana is a party.

(6) A licence may be issued in respect of-

(a) test fishing operations;



(b) a locally based foreign fishing vessel,

notwithstanding the absence of an access agreement otherwise required under subsection (5).

(7) Where the Minister determines that an agreement under section 17 in respect of a foreign fishing vessel necessitates any financial or other guarantees by the applicant for a licence to ensure his compliance with his obligations under this Act, he may issue a licence in respect of that vessel where the applicant provides sufficient financial and other guarantees relating to his fulfilment of all obligations arising under this Act.

(8) Where a fishing vessel is used in contravention of subsection (1) or of any condition of a foreign fishing vessel licence, the master, owner and charterer of that vessel each commits an offence and shall be liable on summary conviction to a fine not exceeding ten million dollars.

**PART VI  
PROVISIONS APPLICABLE TO BOTH FOREIGN AND LOCAL FISHING  
VESSELS**

**Validity of fishing licences.**

19. (1) Unless earlier cancelled in accordance with section 22, a fishing licence shall be valid for such period not exceeding twelve months as may be specified in the licence.

(2) Where a vessel licensed as a local fishing vessel becomes a foreign fishing vessel, the licence shall automatically cease to be valid and vice-versa.

(3) A fishing licence shall be valid only for the fishery or fisheries specified in the licence.

(4) Except as may be otherwise specified in any regulations made under section 79 in implementation of a scheme for the limitation of effort in any specified fishery, no licence shall be transferable except with the written permission of the Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister.

**Conditions of fishing licences.**

20. (l) Every fishing licence shall be in the prescribed form and shall be subject-

(a) to such general conditions as may be prescribed;

(b) to such general conditions as may be specified under subsection (2); and

(c) to such special conditions as may be specified under subsection (3).

(2) The Minister may, by Order, specify general conditions additional to those prescribed to which all fishing licences or any category of fishing licences shall be subject including conditions relating to open and closed seasons, prohibited fishing areas, minimum mesh sizes and minimum species sizes.

(3) The Chief Fisheries Officer may attach to any local fishing licence such special conditions as he may think fit relating to the proper management of fisheries, the base of operations of the vessel, the landing of its catch and the gathering of information on the operations of the vessel.

(4) The Chief Fisheries Officer may, from time to time, where he is satisfied that it is expedient for the proper management of fisheries in the fisheries waters or the proper regulation of fishing operations, vary any special conditions attached to any fishing licence.

(5) Where any special conditions attached to any fishing licence have been varied in accordance with subsection (4), the Chief Fisheries Officer shall notify the licence holder of such variation as soon as practicable.

**Notice.**

21. (1) Any variation of a special condition given under section 20 or cancellation or suspension under section 22 shall be in writing, except as otherwise specified in subsection (2).

(2) In the case of a foreign fishing vessel, a notification referred to in subsection (1) may be in writing or by telex, radio or such other form as the Minister deems appropriate.

**Cancellation and suspension of fishing licences.**

22. (1) The Chief Fisheries Officer or, in the case of a foreign fishing licence, the Minister, may cancel or suspend a fishing licence or a category of fishing licences on any of the grounds set out in subsection (2).

(2) A fishing licence, or a category of fishing licences, may be cancelled or suspended where the Minister or the Chief Fisheries Officer, as the case may be, is satisfied that-

(a) it is necessary to do so in order to allow for the proper management of any particular fishery;

(b) where, following the inspection of a fishing vessel, the certificate of registration of the vessel has been cancelled under section 12; or

(c) the vessel in respect of which the licence has been issued has been used in contravention of this Act or of any regulations made thereunder, or of any conditions of the licence or in breach of any applicable access agreement.

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

(4) Where a fishing licence has been cancelled or suspended on the grounds specified in subsection (2)(a) a proportion of any fees paid for the fishing licence representing the unexpired period of that licence, shall be reimbursed to the person to whom the licence was issued at his request.

**Controls over sale of fish taken in the course of sport fishing or fisheries related research and survey operations.**

23. (1) No fish taken in the course of sport fishing or fisheries related research or survey operations shall be sold except with the prior authorization of the Chief Fisheries Officer and in accordance with such conditions as he may impose.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding thirty thousand dollars.

**Fisheries related research or survey operations.**

24. (1) Subject to subsection (2), no person shall undertake fisheries related research or survey operations in the fisheries waters except with the prior permission of the Minister.

(2) Subsection (1) shall not apply to fisheries related research or survey operations undertaken in the fisheries waters by an international organization or agency of which Guyana is a member under and in accordance with a detailed international project to which the Government has given its formal approval.

(3) An application to undertake fisheries related research or survey operations in the fisheries waters shall be made to the Minister in the prescribed form and shall be supported by a detailed plan of the research or survey operations to be undertaken.

(4) The Minister, may grant permission for any vessel or person to undertake fisheries related research or survey operations in the fisheries waters and in doing so may exempt such vessel or person from any of the provisions of this Act where such exemption may be required for the proper carrying out of the research or survey operations.

(5) It shall be a condition of any permission given by the Minister under subsection (4) that-

(a) such scientific observers or other personnel as the Minister may designate shall be allowed on board the research or survey vessel and shall be allowed to participate fully in the research or survey project both on board the vessel and on shore;

(b) copies of any raw data generated by the research or survey operations shall be submitted to the Chief Fisheries Officer at the end of the operations or during the course of such operations;

(c) the results and conclusions of the research or survey operations shall be submitted to the Chief Fisheries Officer as soon as practicable following the completion of the operations and in any case no later than the time specified for the submissions of the results and conclusions in the written permission given by the Minister; and

(d) no results of the research and survey operations shall be published or otherwise made available without the prior agreement of the Minister.

(6) The Minister may attach such other conditions as he deems fit to any permission

granted under subsection (1).

(7) Where any of the conditions set out in subsection (5) has been breached, no further permission for fisheries related research or survey operations shall be granted to the person or vessel concerned until such time as corrective action has been taken to the satisfaction of the Minister.

(8) Any person who undertakes or assists in any fisheries research in the fisheries waters-

(a) without permission under subsection (1); or

(b) in contravention of any condition attached to the permission under subsection (5) or (6),

commits of an offence and shall be liable on summary conviction to a fine not exceeding five hundred thousand dollars.

(9) Any permission or exemption granted under this section shall be in writing.

**Test fishing operations.**

25. (1) The Chief Fisheries Officer may, where he considers it to be in the best interests of Guyana, approve test fishing operations to be undertaken by foreign fishing vessels.

(2) Any approval given by the Chief Fisheries Officer under this section shall be in writing and shall be valid for such period not exceeding six months as may be specified in the approval, provided that a longer period may be specified with the approval of the Minister.

(3) Any approval given under this section shall not exempt a foreign fishing vessel from the requirement to hold a valid foreign fishing vessel licence under section 18.

**PART VII  
FEES, ROYALTIES, ETC.**

**Fees, royalties and other charges.** 26. (1) There shall be payable in respect of every local fishing vessel licence, commercial fisher's licence, or permit such fees as may be prescribed.

(2) There shall be payable in respect of every foreign fishing vessel licence such royalties or other charges as may be set out in any applicable access agreement or in the case of a locally based foreign fishing vessel or a foreign fishing vessel engaged in test fishing operations, such royalties or other charges as the Minister may determine, or as may be prescribed.

**PART VIII  
MARINE RESERVES AND FISHING PRIORITY AREAS**

**Marine reserves.** 27. (1) The Minister may, by Order, declare any area of the fisheries waters and, as appropriate, any adjacent or surrounding land, to be a marine reserve where he considers that special measures are necessary-

(a) to afford special protection to the flora and fauna of such areas and to protect and preserve the natural breeding grounds and habitats of aquatic life, with particular regard to flora and fauna in danger of extinction:

(b) to allow for the natural regeneration of aquatic life in areas where such life has been depleted;

(c) to promote scientific study and research in respect of such areas; or

(d) to preserve and enhance the natural beauty of such areas.

(2) Any person who, without permission granted under subsection (3)-

(a) fishes or attempts to fish;

(b) takes or destroys any flora or fauna other than fish;

(c) dredges, extracts sand or gravel, discharges or deposits waste or any other polluting matter, or in any way disturbs, alters or destroys the natural environment; or

(d) constructs or erects any building or other structures on or over any land or waters,

in any marine reserve, commits an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars.

(3) The Minister, or any person authorized by him in writing, may give written permission to do any of the things prohibited under this section where the doing of such things may be required for the proper management of the reserve or for any of the purposes referred to in subsection (1).



**Fishing priority areas.**

28. The Minister where he considers that special measures are necessary to ensure that authorised fishing within the area is not impeded or otherwise interfered with, may, by Order, declare any area of the fisheries waters to be a fishing priority area.

**PART IX  
PROHIBITED FISHING METHODS, POSSESSION OF PROHIBITED FISHING  
GEAR, AND STOWAGE OF FISHING GEAR**

**Prohibited fishing methods.**

29. (1) Any person who in any part of the fisheries waters or elsewhere in Guyana-

(a) uses or permits to be used, or attempts 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) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceding paragraph;

commits an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars

(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) Any person who lands, sells, receives or is found in possession of any fish taken in contravention of subsection (1)(a), knowing or having reasonable cause to believe them to have been so taken, commits an offence and shall be liable on summary conviction

to a fine not exceeding twenty five thousand dollars.

(4) For the purposes of this section, a certificate as to the cause and manner of death or injury of any fish signed by the Government Analyst, the Chief Fisheries Officer or such other person as the Chief Fisheries Officer may designate in writing, shall be accepted as prima facie evidence in court without proof of the signature of the person appearing to have signed the certificate or his official character.

(5) For the purposes of subsection (4), the defendant to proceedings brought under this section is entitled to fourteen days notice in writing of the prosecution's intention to produce the said certificate.

**Possession of prohibited fishing gear.**

30. Any person who, in the fisheries waters -

(a) uses any prohibited fishing gear; or

(b) has any prohibited fishing gear in his possession on board any fishing vessel in circumstances which indicate an intention to use it for fishing, commits an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars.

**Stowage of fishing gear.**

31. (1) The fishing gear of any foreign fishing vessel which is prohibited from fishing in the fisheries waters under section 18 shall be stowed in the prescribed manner while the vessel is within the fisheries waters.

(2) Where a foreign fishing vessel is licensed to fish by means of a particular type of fishing gear in any specific area of the fisheries waters, any other fishing gear on board the vessel shall be stowed in the prescribed manner while the vessel is within that area

and all fishing gear on board the vessel shall be stowed in the prescribed manner while the vessel is within any other area of the fisheries waters where it is not licensed to fish.

(3) Where a foreign fishing vessel contravenes subsection (1) or (2), the master, owner and charterer of that vessel, each commits an offence, and shall be liable on summary conviction to a fine not exceeding one million dollars.

## **PART X HIGH SEAS FISHING**

**Purpose and application.**

32. (1) The purpose of this Part is -

- (a) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on 24 November 1993;
- (b) to implement the Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted at New York on 4 August 1995; and
- (c) to establish a system for the regulation of fishing vessels of Guyana operating outside areas under national jurisdiction.

(2) This Part shall apply-

- (a) within the jurisdiction of Guyana including the fisheries waters;
- (b) to any fishing vessel of Guyana and any act or omission occurring on or by such a vessel wherever that vessel may be; and
- (c) to any act or omission by an authorised officer on the high seas.

(3). In this part a "foreign fishing vessel " means any vessel which is used or intended for fishing or related activities or as a mother ship or as a support vessel directly engaged in fishing other than a fishing vessel of Guyana;

**Regulation of fishing in areas beyond national jurisdiction.**

33.(1) No fishing vessel of Guyana shall be used for fishing or related activities on the high seas unless the vessel has on board a valid high seas fishing permit.

(2) Where a fishing vessel of Guyana is used in contravention of sub-section (1) the master, owner, charterer or operator of the vessel, each commits an offence and shall each be liable on summary conviction to a fine not exceeding three million dollars or in default thereof, imprisonment for a period not exceeding two years.

**Application for high seas fishing permit.**

34.(1)The owner, charterer or operator of a fishing vessel of Guyana may apply for a high seas fishing permit in respect of that vessel by completing an application in a form prescribed by the Minister. The application form shall contain details of-

- (a) the vessel's name, previous names (if known), registration numbers and port of registry;
- (b) the vessel's previous flags (if any);
- (c) the vessel's International Radio Call Sign (if any);
- (d) the names and addresses of the vessel's owners and operators;
- (e) where and when the vessel was built;

- (f) the type of vessel;
- (g) the vessel's length;
- (h) the type of fishing method or methods;
- (i) the moulded depth of the vessel;
- (j) the beam of the vessel;
- (k) the gross register tonnage of the vessel;
- (l) the power of the main engine or engines of the vessel;
- (m) vessel navigation and position fixing equipment; and
- (n) any other information the Minister requires for the purpose of implementing the Compliance Agreement or the Fish Stocks Agreement, or for the purpose of giving effect to international conservation and management measures.

(2)The Minister shall have regard to the following matters in determining whether or not to grant a high seas fishing permit:-

- (a) the capacity of Guyana to implement its obligations under the Compliance Agreement and the Fish Stocks Agreement;
- (b) the advice of the Chief Fisheries Officer;
- (c) the previous conduct of the person or persons applying for the permit; and
- (d) any other relevant matter.

(3)The Minister shall not issue a high seas fishing permit in respect of a vessel unless the Minister is satisfied that Guyana will be able to exercise effectively its responsibilities under the Compliance Agreement, the Fish Stocks Agreement and

international conservation and management measures with respect to that vessel.

(4) Subject subsections (5) and (6), the Minister shall not issue a high seas fishing permit in respect of any fishing vessel of Guyana, if that vessel was previously authorised to be used for fishing on the high seas by a foreign State, and-

(a) the foreign State suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(b) the foreign State, within the last three years preceding the application for a permit under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(5) The restriction in subsection (4) does not apply if the ownership of the vessel has changed since the vessel undermined international conservation and management measures, and the new owner has provided sufficient evidence to the Minister demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in the vessel.

(6) The restriction in subsection (4) does not apply if the Minister makes a determination that issuing a high seas fishing permit in respect of the vessel would not subvert the purposes of the Compliance Agreement.

(7) A person who knowingly or recklessly provides any information required to be given under this section which is false in a material particular commits an offence and shall be liable on summary conviction to a fine not exceeding three million dollars, or

in default thereof, imprisonment for a period not exceeding two years.

**Fees.**

35. The Minister shall, by notice published in the *Gazette*, determine the level of fees payable for a high seas fishing permit and in setting the level of any such fees the Minister shall have due regard to the fisheries management costs of Guyana in fulfilling its obligations under international law.

**Conditions.**

36. (1) Every high seas fishing permit shall be in the prescribed form and shall contain the following conditions-

- (a) the vessel to which the permit relates shall be marked in accordance with Regulations made under section 79;
- (b) the vessel shall not engage in any activities which undermine the effectiveness of international conservation and management measures; and
- (c) the permit holder shall report such information as the Minister requires, including the area of fishing operations, vessel position and catch statistics.

(2) The Minister may attach such other conditions and restrictions to each high seas fishing permit as are necessary and appropriate to carry out the obligations of Guyana under the Compliance Agreement and the Fish Stocks Agreement, including, but not limited to, the following-

- (a) the area or areas in which fishing is authorised;
- (b) the period, times or particular voyages during which fishing is authorised;
- (c) the descriptions, quantities, size and presentation of fish which may be taken;
- (d) the method of fishing to be undertaken;

- (e) the marking of gear;
- (f) a requirement that the vessel carry observers on board during fishing operations on the high seas;
- (g) a requirement that access be permitted to foreign observers;
- (h) a requirement that additional monitoring equipment be carried;
- (i) measures to be taken to avoid catching non-target species;
- (j) requirements for recording and timely reporting of vessel position, catch of target and non target species, fishing effort and other relevant fisheries data;
- (k) requirements for verifying the catch of target and non target species; and the stowage of gear.

(3) The Minister may vary any condition attached to a high seas fishing permit where the Minister is satisfied that this is necessary to ensure compliance by Guyana with its obligations under the Compliance Agreement or the Fish Stocks Agreement.

(4) Where the Minister varies any condition attached to a high seas fishing permit the Minister shall notify the permit holder of such variation as soon as practicable.

(5) Where a fishing vessel of Guyana is used in contravention of any condition or restriction contained in the high seas fishing permit the master, owner, charterer or operator of the vessel each, commits an offence and shall be liable on summary conviction to a fine not exceeding three million dollars, or in default thereof, imprisonment for a period not exceeding two years.

**Validity.**

37. (1) A high seas fishing permit is valid for one year or such other period as may be specified in the permit.



(2) A high seas fishing permit is void in the event that the vessel in respect of which it was granted is no longer entitled to fly the flag of Guyana.

**Cancellation and suspension.**

38.(1) The Minister may cancel or suspend a high seas fishing permit where the Minister is satisfied that-

- (a) the vessel in respect of which the permit was granted has been used in contravention of this Act or any regulations made pursuant to this Act or in breach of any conditions or restrictions in the permit; or
- (b) the vessel in respect of which the permit was granted has engaged in activities undermining the effectiveness of international conservation and management measures; or
- (c) it is necessary to ensure compliance by Guyana with its obligations under the Compliance Agreement, the Fish Stocks Agreement or international conservation and management measures.

(2) At the same time as cancelling or suspending a permit, the Minister may also direct that the vessel in respect of which the permit was granted return immediately to port.

(3) If a permit is cancelled or suspended the Minister may, taking into account the circumstances of the case, refund the whole or part of any fee charged for the permit.

(4) Before any licence or permit under this Act is cancelled or suspended the holder thereof shall be afforded an opportunity of making representations.

**Unauthorised fishing.**

39. To ensure that fishing vessels of Guyana do not conduct unauthorised fishing in the territorial sea or exclusive economic zone (or other zone of extended fisheries jurisdiction) of any foreign State the Minister may make regulations-

- (a) requiring the recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other fisheries data;
- (b) requiring the owners, operators, charterers, or masters of such vessels to provide copies of licences and evidence that such operations are authorised;
- (c) authorising and establishing procedures for the provision of evidence to a foreign State which alleges that such a vessel has engaged in such unauthorised fishing.

**Powers and duties of the Chief Fisheries Officer.**

40. (1) The Chief Fisheries Officer shall maintain a record of fishing vessels of Guyana in respect of which high seas fishing permits have been issued including all information submitted under section 34(1).

(2) The Chief Fisheries Officer shall-

- (a) make available to FAO information contained in the record maintained under subsection (1);
- (b) promptly notify FAO of changes in such information in respect of high seas fishing vessels;
- (c) promptly notify FAO of any additions to or deletions from the record, and the reasons for any deletion;

- (d) convey to FAO information relating to any high seas fishing permit granted under section 34, including the identity of the vessel and its owner, charterer or operator, and factors relevant to the Minister's decision to issue the permit;
  - (e) report promptly to FAO all relevant information in his possession regarding any activities of fishing vessels of Guyana on the high seas that undermine the effectiveness of international conservation and management measures, including the identity of vessels and any sanctions imposed;
  - (f) provide FAO with a summary of evidence in his possession regarding the activities of foreign vessels that undermine the effectiveness of international conservation and management measures; and
  - (g) maintains a record of international conservation and management measures and subregional or regional organisations which are recognised by Guyana.
- (3) The Chief Fisheries Officer may make available on request the information maintained under subsection (1) to any directly interested foreign State which is a party to the Compliance Agreement or the Fish Stocks Agreement and to any subregional or regional fisheries management organisation.
- (4) The Chief Fisheries Officer may lay an information before the Court in respect of alleged offences committed under this Act.

**Powers to authorize enforcement measures.**

41.(1) Where following the conclusion of inspection measures pursuant to section 20 (1) in respect of a fishing vessel of Guyana, it is alleged by a foreign State which is a party to the Fish Stocks Agreement that there is clear evidence that an offence has been committed under this Act, the Chief Fisheries Officer may authorise a foreign authorised officer to undertake enforcement measures in respect of that vessel under section 44.

(2) Where following the conclusion of inspection measures pursuant to section 21 (1) in respect of a vessel flying the flag of a State which is a party to the Fish Stocks Agreement, there is clear evidence that there has been a serious violation of international conservation and management measures the Chief Fisheries Officer may authorise a national authorised officer to undertake enforcement measures in respect of that vessel under section 44.

**Action against vessel undermining international conservation measures.**

42. If the Chief Fisheries Officer has reasonable grounds to believe that a foreign fishing vessel has engaged in activities that undermine the effectiveness of international conservation and management measures, the Chief Fisheries Officer shall-

- (a) provide to the appropriate authorities of the flag State of the vessel concerned such information, including evidentiary material, relating to those activities as may be necessary to assist the flag State to identify the vessel;
- (b) when such foreign vessel is voluntarily in a port of Guyana, promptly notify the appropriate authorities of the flag State and, if requested by the flag State, make arrangements to undertake such lawful measures as may be considered necessary to establish whether the vessel has been used contrary to the Compliance

Agreement or the Fish Stocks Agreement.

**Inspection measures.**

43. In this Part, a provision that an authorised officer may undertake inspection measures in respect of a vessel or class of vessel means that within those areas specified that person may without a warrant -

- (a) stop, board and search such a vessel;
- (b) require to be produced, examine and take copies of any high seas fishing permit issued under this Part or any equivalent document required to be carried by a fishing vessel in accordance with the rules of a subregional or regional fisheries management organisation;
- (c) require the production of any fishing net or other fishing gear and any catch;
- (d) require the production of any log book, record of fish caught or other documents.

**Enforcement measures.**

44.(1) In this Part, a provision that an authorised officer may undertake enforcement measures in respect of a vessel or class of vessel means that within those areas specified that person may without a warrant -

- (a) take samples of any fish found in any such vessel;
- (b) seize any vessel (together with its fishing gear, furniture, monitoring devices, navigational aids, appurtenances, stores and cargo) used or employed in, or with respect to which it reasonably appears was used or employed in the violation of any provision of this Part or any regulation or permit issued under this Part or any

international conservation and management measures;

- (c) seize any fish taken or retained;
- (d) seize any other evidence;
- (e) arrest or detain any person if the officer has reason to believe that such person has committed an offense under this part; and
- (f) take the vessel to the nearest appropriate port.

(2) A national authorised officer may, for the purpose of enforcing this Part, and without prejudice to any other powers granted to him under this Act-

- (a) undertake inspection measures in respect of any fishing vessel of Guyana; and
- (b) undertake enforcement measures in respect of any such vessel where the authorised officer has reasonable grounds to believe that an offence has been committed under this Part.

(3) Within the fisheries waters, a foreign authorised officer, who has been granted powers pursuant to section 4 may, for the purpose of enforcing this Part-

- (a) undertake inspection measures in respect of any fishing vessel of Guyana; and
- (b) undertake enforcement measures in respect of any such vessel

where the authorised officer has reasonable grounds to believe that an offence has been committed under this Part.

**Master deemed to have committed offence.**

45. Where an offence has been committed by any person on board a fishing vessel, the master of such vessel shall be deemed also to have committed the offence.

## **PART XI FISH PROCESSING ESTABLISHMENTS**

**Fish processing establishments.**

46. (1) Subject to subsection (2), the Chief Fisheries Officer may grant to any person a licence to operate a fish processing establishment on such conditions, and subject to the payment of such fees, as may be prescribed.

(2) No licence shall be issued in respect of a fish processing establishment, unless the establishment conforms to such conditions relating to the manner of construction of the establishment as may be prescribed.

(3) Any person who operates, or allows to be operated any fish processing establishment except with a licence granted under this section and in accordance with any conditions prescribed commits an offence and shall be liable on summary conviction to a fine not exceeding two hundred thousand dollars.

(4) A license to operate a fish processing establishment does not relieve the licensee of duties under any other law.

## **PART XII IMPORT AND EXPORT OF FISH**

**Import and export of fish.**

47.(1) No person shall import into Guyana or export or bring to any place for export

any fish without first obtaining a licence for that purpose from the Chief Fisheries Officer.

(2) Application for a licence under subsection (1) shall be made in the prescribed form to the Chief Fisheries Officer and shall be accompanied by the prescribed application fee.

(3) Where an application is made under subsection (2), the Chief Fisheries Officer may subject to subsection (4), grant the licence on the payment of such fees as may be prescribed.

(4) The Chief Fisheries Officer may specify other conditions for the grant of a licence.

(5) Prior to issuing a licence to import live fish into Guyana, the Chief Fisheries Officer may require that a study or studies be carried out, at the applicant's expense, to ascertain the possible impact that the release of such live fish may have on the environment.

(6) The Chief Fisheries Officer, in deciding whether to grant a licence under subsection (1) shall have due regard to the provisions of the Convention On International Trade in Endangered Species of Wild Flora and Fauna, Washington, 1973, to which Guyana is a party, as well as to such other obligations Guyana may have under other international agreements.

(7) A person who imports into or exports or brings to any place for export from, Guyana any fish without obtaining a licence to do so in accordance with this section commits an offence and shall be liable on summary conviction to a fine of five hundred thousand dollars and imprisonment for a period not exceeding six months.



(8) Where any person is prosecuted for exporting or attempting to export any ornamental fish, the proof that such fish was caught outside the limits of Guyana shall be on that person.

### **PART XIII ENFORCEMENT AND JUDICIAL PROCEEDINGS**

**Powers of authorised officers.**

48.(1) For the purposes of enforcing this Act, any authorised officer may, without a warrant -

- (a) stop any foreign fishing vessel in the fisheries waters and any local fishing vessel in or beyond the fisheries waters;
- (b) require the master of the vessel to stop fishing and take the fishing gear of the vessel back on board;
- (c) require the master to facilitate the boarding of the vessel by all appropriate means;
- (d) go on board the vessel and take with him such other persons as he may require to assist him in the exercise of his powers;
- (e) muster the crew of the vessel;
- (f) require to be produced, examine and take copies of any certificate of registration, licence, permit, official log book, official paper, article of agreement, record of fish caught and any other document required under this Act or relating to the vessel and to the crew or any member thereof or to any person on board the vessel which is

in their respective possession or control on board the vessel;

- (g) require the master to appear and give any explanation concerning the vessel and any crew or any person on board the vessel and any document mentioned in paragraph (f);
- (h) make any search, examination or enquiry which he shall consider necessary to find out whether any provision of this Act has been contravened;
- (i) make an entry dated and signed by him in any vessel's log;
- (j) take or require the master to take the vessel to any place, port or harbour in Guyana for the purpose of carrying out any search, examination or enquiry;
- (k) take samples of any fish found in any vessel, vehicle, aircraft or premises searched under this section;
- (l) give directions to the master and any crew member of any vessel stopped, boarded or searched as may be necessary or reasonably expedient for any purpose specified in this Act or to provide for the compliance by the vessel, master or any crew member with the conditions of any licence; and
- (m) at all reasonable times enter and inspect any fish processing establishment, aquaculture facility or any other place where fish or fish products are kept or stored for the purposes of sale or export.

(2) Where an authorised officer has reasonable grounds to believe that an offence against this Act has been, is being or is about to be committed, he may, without a warrant -

- (a) enter and search any premises, other than premises used exclusively as a dwelling house, in which he has reasonable grounds to believe that an offence has been or is being committed or that fish illegally taken or explosives for use contrary to section 29 are being stored;
- (b) stop, enter and search any vehicle or aircraft which he reasonably suspects is being used or is involved in the commission of an offence against this Act;
- (c) following hot pursuit in accordance with international law and commenced within the fisheries waters, stop, board and search outside the fisheries waters any foreign fishing vessel which he has reasonable grounds to believe has been used in the commission of an offence and bring such vessel and all persons and things on board within the fisheries waters;
- (d) seize -
  - (i) any vessel (together with its fishing gear, equipment, stores and cargo), vehicle or aircraft which he has reasonable grounds to believe has been or is being used in the commission of an offence or in respect of which he believes such offence to have been committed or which he knows or has reasonable grounds to

believe has been seized or forfeited in accordance with any provision of this Act;

(ii) any fish or fish products which he has reasonable grounds to believe have been taken or produced in the committing of such offence or which are possessed in contravention of this Act;

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

(iv) any logs, charts or other documents required to be maintained by this Act or under the terms of any licence or which he has reasonable grounds to believe show or tend to show, with or without other evidence, the commission of an offence under this Act;

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

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

(3) In exercising the powers referred to in this section an authorised officer may use such force as may be reasonably necessary.

**Powers of authorised officers  
beyond limits of national  
jurisdiction.**

49.(1) In any high seas area covered by a subregional or regional fisheries management organisation, and in accordance with the rules and procedures of that

organisation, a foreign authorised officer may for the purpose of enforcing international conservation and management measures undertake inspection measures in respect of a fishing vessel of Guyana.

(2) Following the completion of inspection measures under subsection (1), where there are clear grounds for believing that an offence has been committed under this Part, a foreign authorised officer may undertake enforcement measures in respect of the vessel.

(3) The Minister may make regulations to establish the procedures to be followed in the execution by foreign authorised officers of inspection measures under subsection (1) and enforcement measures under subsection (2) and may restrict, qualify or otherwise limit the scope of such powers.

(4) In any high seas area covered by a subregional or regional fisheries management organisation, and in accordance with the rules and procedures of that organisation, a national authorised officer may, for the purpose of verifying compliance with international conservation and management measures, undertake inspection measures in respect of a foreign fishing vessel flying the flag of a State which is party to the Fish Stocks Agreement or a fishing vessel which that officer reasonably believes is without nationality.

(5) Following the completion of inspection measures under subsection (1), where there are clear grounds for believing that the vessel has engaged in an activity contrary to international conservation and management measures, with the authorisation of the Chief Fisheries Officer, a national authorised officer may undertake enforcement measures in respect of that vessel.

(6) The Minister may make regulations to establish the procedures to be followed in the execution by national authorised officers of inspection measures under subsection (1) and enforcement measures under subsection (2) and may restrict, qualify or otherwise limit the scope of such powers.

(7) No national authorised officer shall undertake inspection measures under subsection (1) or enforcement measures under subsection (2) until such time as regulations have been made under subsection (3).

(8) For the purpose of enforcing international conservation and management measures a national authorised officer may undertake inspection measures in respect of a foreign fishing vessel which is voluntarily in a port or offshore terminal of Guyana.

(9) For the purpose of enforcing international conservation and management measures, and with the written authorisation of the Chief Fisheries Officer pursuant to the request of the flag State, a national authorised officer may undertake specified enforcement measures in respect of a foreign fishing vessel which is voluntarily in a port or offshore terminal of Guyana.

(10) Where, following the commission of an offence under this Act by any foreign fishing vessel, such foreign fishing vessel is pursued beyond the limits of the fisheries waters in circumstances and to the extent recognized by international law, the powers conferred on authorised officers under this Act shall be exercisable beyond the limits of national jurisdiction in accordance with international law.

(11) In this section “foreign authorized officer” or “national authorized officer” means an officer appointed as such by the Minister.

**Seizure of fishing vessels.**

50.(1) Where any vessel is seized under this Act the master and crew thereof shall take

the vessel to such place, port or harbour in Guyana as the authorised officer shall require and the vessel may be detained pending the outcome of any proceedings under this Act or its release on bond or other security under section 57.

(2) In bringing the vessel to the designated place, port or harbour, the master shall be responsible for the safety of the crew, vessel, himself and any other person on board the vessel.

(3) If the master and crew fail or refuse to take the vessel to the designated place, port or harbour, an officer authorised by the Minister may take charge of the vessel for the purpose of bringing it into port.

(4) If the vessel is brought into port in the circumstances described in subsection (3), no claim whatever may be made against any authorised officer or the Government of Guyana in respect of any death, injury, loss or damage occurring while the vessel is being brought into port.

**Seizure of vehicle or aircraft.**

51.(1) Where any vehicle or aircraft is seized under this Act the driver or pilot thereof shall take the vehicle or aircraft to such place in Guyana as the authorised officer shall designate being the nearest or most convenient place for the holding of such vehicle or aircraft and the vehicle or aircraft may be detained pending the outcome of any proceedings under this Act or its release on bond or other security under section 57.

(2) In bringing the vehicle or aircraft to the designated place the driver of the vehicle or pilot of the aircraft shall be responsible for the safety of the vehicle or aircraft, its passengers, crews and any other person on board the vehicle or aircraft.

(3) If the driver or pilot fails or refuses to take the vehicle or aircraft to the designated

place, an authorised officer may take charge of the vehicle or aircraft for the purpose of bringing it to the designated place.

(4) If a vehicle or aircraft is brought into port in the circumstances described in subsection (3), no claim whatever may be made against any authorised officer or the Government of Guyana in respect of any death, injury, loss or damage occurring while the vehicle or aircraft is being brought to the designated place.

**Immobilisation of fishing vessel,  
vehicle or aircraft.**

52.(1) Having regard to the safety of the vessel, vehicle or aircraft, an authorised officer may take steps to immobilize any vessel, vehicle or aircraft seized, taken or detained in the custody of the Government of Guyana in accordance with this Act, including by removing any part or parts from the vessel, vehicle or aircraft, for the purpose of preventing the vessel being taken by any person prior to the release of the vessel under section 57 or by the Court.

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

**Assaulting, obstructing etc.  
authorized officer or observer.**

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

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

(3) The holder of a fish processing establishment licence or aquaculture permit and all



persons employed at the establishment or aquaculture facility shall immediately comply with every instruction or direction given by an authorised officer, facilitate his safe entry and inspection of the fish processing establishment and inspection of records, documents, fish and fish products and take all measures to ensure the safety of an authorised officer in the performance of his duties.

(4) Every person who -

(a) contravenes subsection (1), (2), or (3) ;

(b) 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 observer appointed by the Minister in the performance of his duties;

(c) incites or encourages any other person to assault, resist or obstruct any authorised officer while carrying out his duties, or any person lawfully acting under the officer's orders or in his aid;

(d) uses threatening language or behaves in a threatening or insulting manner or uses abusive language or insulting gestures towards any authorised officer or observer while in the execution of his powers or duties, or any person lawfully acting under an authorised officer's orders or in his aid;

(e) fails to comply with the lawful requirements of any authorised officer or observer;

(f) furnishes to any authorised officer any particulars which, to his knowledge are false or misleading in any material respect; or

(g) personates or falsely represents himself to be an authorised officer, or who falsely represents himself to be a person lawfully acting under an authorised

officer's orders or in his aid;

commits an offence and shall be liable on summary conviction to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding six months.

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

**Identification of authorised officers and observers.**

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

**Protection of authorised officers and observers.**

55. A person who does any act in pursuance or intended pursuance of the functions conferred on him by or under this Act shall not be subject to any civil or criminal liability in respect of such act, whether on the ground of want of jurisdiction, mistake of law or fact, or on any other ground, unless he or she has acted, or omitted to act, in bad faith.

**Destruction of evidence etc.**

56. Any person who, being on board any vessel being pursued, about to be boarded or notified it will be boarded by any authorised officer throws overboard or destroys any fish, fish products, fishing gear, explosive, poison, noxious substance, chart, log, document or other thing with intent to avoid the seizure thereof or the detection of any offence against this Act commits an offence and shall be liable on summary conviction to a fine not exceeding one million dollars or imprisonment for a term not exceeding six months.

**Security, release and forfeiture of detained property.**

57.(1) Where a fishing vessel is taken, seized or detained under this Act and an

information or charge is laid against the master, the owner or the charterer of the vessel in respect of the offence for which the vessel has been detained, the master, the owner or the charterer or the agent of the owner or of the charterer of the vessel may at any time before the determination of the information or charge apply to the court by which the information or charge is due to be determined for the release of the vessel on the provision of security in accordance with this section.

(2) On hearing the application the court -

- (a) being satisfied that reasonable security has been given to the Government in respect of the aggregate of the maximum penalty to which the defendant may be liable, may order the release of the fishing vessel; or
- (b) order the release of the fishing vessel on the execution by any suitable person or persons approved by the Court for the purpose of a reasonable bond in favour of the Government in the prescribed form and conditioned in accordance with subsection (4) in an amount not less than the aggregate of the maximum penalty to which the defendant may be liable.

(3) Notwithstanding subsection (2) the Court may, where it is satisfied that there are special circumstances to justify it doing so, order that the bond shall be in a specified amount that is less than the amount required by that subsection.

(4) The condition of the bond shall be that if -

- (a) the defendant is found not guilty of the information or charge; or
- (b) the defendant, on being convicted of the information or charge, pays in full within fourteen days after he is convicted the amount of

the fine imposed by the Court,

then the bond shall be of no effect but that otherwise the bond shall remain in full force and effect.

(5) The amount specified in the bond shall be recoverable in full in any Court of competent jurisdiction as a debt due to the Government jointly and severally by the person or persons by whom the bond is given unless the person or persons prove the due performance of the condition for which the bond was made.

(6) In this section "fishing vessel" includes all equipment on board or used by the vessel and also includes all fish that has been seized from the vessel under this Act and is detained on board the vessel in the custody of the Government.

**Disposal of seized fish and other perishables.**

58.(1) Where any fish or other things of a perishable nature are seized under this Act the Chief Fisheries Officer may, notwithstanding any other provision of this Act, either -

- (a) return the fish or other thing to the person from whom it was seized on receiving security that is, in the opinion of the Chief Fisheries Officer adequate for the equivalent value of the fish or thing by way of bond or other stipulation conditioned for payment of such equivalent value in the event that such amount shall be adjudged by the Court to be forfeited to the State; or
- (b) cause the sale of the fish or other thing at its reasonable market value and, if court proceedings are instituted, pay the proceeds of sale into court pending an order by the court in respect of the forfeiture or otherwise of the proceeds or, if no proceedings are instituted, release the proceeds to the person from whom the fish or other thing was seized provided that, if, after making all reasonable

efforts, the Chief Fisheries Officer is unable to sell the fish or other items, or where such fish or other items are unfit for sale, he may dispose of them in such other manner as he thinks fit.

(2) Where any live fish has been seized under this Act it may be released or destroyed at the discretion of the seizing officer where he considers such act desirable in order to prevent undue suffering or for other good and sufficient reason.

**Treatment of persons arrested,  
vessels and other things detained  
or seized.**

59.(1) Any person arrested and, subject to sections 57 and 58, any vessel, article or thing arrested, detained or seized shall be brought before or under the jurisdiction of a court without undue delay.

(2) Where any person arrested is released without charge or the prosecution of that person is not proceeded with within thirty days of the arrest, any vessel, article or thing arrested, detained or seized when in the possession of or under the control of that person or the proceeds of sale thereof shall, subject to sections 57 and 58, be returned to that person.

(3) Where the court holds any vessel, article or thing arrested, detained or seized under this Act and a person who has been properly charged with an offence in relation thereto within ninety days of the arrest, detention or seizure fails to appear to answer the charge the Chief Fisheries Officer may apply to the court for such vessel, article or thing to be forfeited to the State and the court shall make such order as it shall consider just.

(4) Where the court fails or refuses to make an order for forfeiture under subsection (3) the Chief Fisheries Officer may appeal to the High Court, the decision of which shall be final.

(5) Subject to subsection (4) and section 65, where a vessel, article or thing is arrested, detained or seized under this Act and no person is arrested the vessel, article or thing

shall be returned to the owner or the person having possession care or control of it at the time of arrest, detention or seizure.

(6) If the lawful owner of a vessel, article or thing arrested, detained or seized under this Act cannot be traced within thirty days of such arrest, detention or seizure it shall be forfeited to the state and be disposed of as the Chief Fisheries Officer in his discretion shall consider fit and any proceeds of sale thereof shall be paid into the Consolidated Fund. y proceeds of sale thereof shall be paid into the Consolidated Fund.

(7) Where a vessel, article or thing has been arrested, detained or seized under this Act and the Court does not order the forfeiture of that vessel, article or thing it, or any proceeds realised from its disposal, shall be returned to the owner thereof or the person having the possession, care or control of it at the time of arrest, detention or seizure.

(8) Where the owner of a vessel, article or thing or the person having the possession, care or control of it at the time of its arrest, detention or seizure is convicted of an offence under this Act and a fine is imposed -

- (a) the vessel, article or thing may be detained until all fines, orders for costs and penalties imposed under this Act have been paid;
- (b) failing payment within the time allowed the vessel, article or thing may be sold in satisfaction of the fine and the balance of the proceeds returned to the owner after deduction of all fines, orders for costs, penalties imposed under this Act and costs of sale; or
- (c) any proceeds realised from its disposal under section 58 may be applied in payment of the fine, order for costs and costs of sale.

(9) Any 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 Chief Fisheries Officer may direct.

**Application of bond, etc.**

60. Any bond, security or net proceeds of sale held in respect of any vessel, vehicle or aircraft or other item shall be applied as follows and in this order -

- (a) the discharge of any forfeiture ordered under section 63;
- (b) the payment of all fines for offences against 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;
- (c) the discharge of all orders for costs in proceedings under this Act arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and
- (d) return as provided in section 59.

**Liability for loss, damage or deterioration of items in custody.**

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

**Removal of item in custody.**

62.(1) Any person who removes any vessel, vehicle, aircraft or other item held under this Act in the custody of the Government commits an offence whether or not he knew the vessel, vehicle, aircraft or other item was held in the custody of the Government and shall be liable on summary conviction to a fine not exceeding one million dollars and, in default of payment thereof, to imprisonment for a term not exceeding one year.

(2) Where any vessel, vehicle, aircraft or other item held or forfeited under this Act has been unlawfully removed from the custody of the Government it is liable to seizure at any time within the fisheries waters.

**Court's power of forfeiture.**

63.(1) Where any person is convicted of an offence against this Act, the court, in addition to any other penalty may, and in the case of a foreign fishing vessel, shall order that any fishing vessel, together with its fishing gear, equipment, stores and cargo, together with any fish caught unlawfully or the proceeds of sale of such fish or any perishables, 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 items seized under this Act, or any bond, security or net proceeds of sale in respect thereof is not forfeited or applied in the discharge of any fine, order for costs or penalty imposed under this Act, it shall be made available for collection by the registered owner or his nominee or, in the absence of such persons, the persons who appear entitled to it.

(3) Where any 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.

(4) Where any vessel, vehicle, aircraft or other item has been released upon the lodging of a bond or security, the court may order any convicted defendant and the owner of the



vessel, vehicle, aircraft or other item concerned, to pay the difference between the bond or amount lodged in respect of the forfeited property and the aggregate value of the forfeited property.

**Onus of proof.**

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

**Disposal of vessel etc. forfeited.**

65. Any vessel (together with its gear, stores and cargo), or any vehicle, fishing gear, net or other fishing appliance, explosive or poison ordered to be forfeited under this Act shall be disposed of in such manner as the Minister may direct.

**Offences triable as if committed within local jurisdiction.**

66. Any offence against any of the provisions of this Act or any regulations made under this Act committed within the fisheries waters by any person, or any such offence committed outside the fisheries waters by any citizen of, or person ordinarily resident in Guyana, or by any person on board any local fishing vessel, shall be triable in any court of Guyana as if such offence had been committed in any place in Guyana within the local limits of the jurisdiction of such court.

**Immunity of authorised officers.**

67. No action shall be brought against any authorised officer in respect of anything done or omitted to be done by him in good faith in the execution of his powers and duties under this Act.

**Certificate of evidence.**

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

- (a) a specified vessel was or was not on a specified date or dates a local fishing vessel or a foreign fishing vessel;
- (b) a specified vessel or person was or was not on a specified date or dates the holder of any specified licence, authorization or certificate of registration;
- (c) an appended document is a true copy of the licence, authorization or certificate of registration for a specified vessel or person and that specified conditions were those of a licence, authorization or certificate of registration issued in respect of a specified vessel or person;
- (d) a particular location or area of water was on a specified date or dates within the fisheries waters, or within a closed, limited, restricted or in any other way controlled area of the fisheries waters, or an area of the fisheries waters subject to specified conditions;
- (e) an appended chart shows the boundaries on a specified date or dates of the fisheries waters, territorial sea, closed or limited areas or other areas or zones delineated for any specified purpose;
- (f) a call-sign, name or number is that of a particular vessel or has been allotted under any system of naming or numbering of vessels to a particular vessel; or
- (g) a particular position or catch report, a copy of which is appended,

was given in respect of a specified vessel

(2) Any certificate issued under this section shall be -

- (a) signed by the person who made it;
- (b) headed "Certificate Made under section 66, Fisheries Act";
- (c) served on all other parties to the proceedings by or on behalf of the person seeking to tender it in evidence at least twenty-one days before the hearing at which the certificate is to be so tendered.

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

**Certificate as to cause of death.**

69.(1) In any proceedings for any offence against section 29 or 30, a certificate as to the cause and manner of death or injury of any fish, signed by the Chief Fisheries Officer, or any person authorised by him in writing, shall, until the contrary is proved, be sufficient evidence as to the matters stated in the certificate.

(2) In any proceedings for any offence against this section, the defendant shall be given not less than fourteen days' notice in writing of the prosecution's intention to adduce a certificate under subsection (1).

**Validity and procedures for certificates.**

70.(1) Subject to this section, in any proceedings under this Act, a certificate issued under section 68 shall be admissible in evidence and shall, in the absence of proof to the contrary, be evidence of all the facts averred in it.

(2) Notwithstanding that a certificate may be admissible by virtue of subsection (1), the

court may, on its own motion or on application by any party to the proceedings, require that the maker of the certificate attend and give oral evidence at the hearing.

(3) Any omission from or mistake made in any certificate issued under section 68 or section 69 shall not render it inadmissible in evidence unless the Court considers that such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced thereby.

(4) The court may, where it thinks appropriate, having regard to the circumstances of any particular case, dispense with the requirement for service as specified in section 68 (2).

**Certificates concerning international conservation measures, boundaries, etc.**

71. In any proceedings brought under this Act-

- (a) a certificate signed by the Chief Fisheries Officer stating that, on a date specified in the certificate, an international conservation and management measure is recognised by Guyana shall be conclusive of that fact;
- (b) a certificate signed by the Chief Fisheries Officer stating that, on a date specified in the certificate, no high seas fishing permit was in force in respect of a fishing vessel of Guyana shall in the absence of evidence to the contrary be sufficient evidence of the matter stated in the certificate;
- (c) a certificate signed by the Minister responsible for foreign affairs

specifying the extent to which, on a date stated in the certificate, the boundaries of the exclusive economic zone (or equivalent zone of extended fisheries jurisdiction) and territorial seas of any foreign State are recognised by Guyana shall be conclusive of the facts contained in the certificate.

**Certificate as to the location of a vessel.**

72.(1) Where in any 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 a place or area stated in a certificate given by an authorised officer or observer shall, in the absence of proof to the contrary, be evidence 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 made under subsection (1) state -

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

**Designated machines.**

73.(1) The Minister may by order published 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; and
- (b) the machine was checked for correct working 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.**

74.(1) Where a photograph is taken of any fishing or related activity and simultaneously the date and time and position from which the photograph is taken are superimposed

upon the photograph 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 set out in subsection (1) shall arise 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 notoriously accurate or are designated machines or were checked as soon as possible after the taking of the photograph against such instruments.

(3) Any authorised officer or observer who takes a photograph of the kind described in subsection (1) may give a certificate appending the photograph stating -

- (a) his name, address, official position, country of appointment and provision under which he is appointed;
  - (b) the name and call sign, if known, of any fishing vessel appearing 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 he 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) A certificate issued under this section shall be admissible in evidence and shall, in the absence of proof to the contrary be evidence of all the facts averred in it.

**Observer devices.**

75.(1)The Minister may, by order published in the *Gazette*, designate any device or machine or class of device or machine as an observer device.

(2) In this section “observer device” means any device or machine placed on a fishing vessel in accordance with this Act, as a condition of its licence, which transmits, whether in conjunction with other machines elsewhere or not, information or data concerning the position and fishing activities of the vessel.

(3) The information or data concerning the vessel’s position and fishing activities referred to in subsection (2) may be fed or input manually into the observer device or automatically from machines aboard the vessel or ascertained by the use of the observer device transmissions in conjunction with other machines.

(4) All information or data obtained or ascertained by the use of an observer device, shall be presumed, unless the contrary is proved, to -

- (a) come from the vessel so identified;
- (b) be accurately relayed or transferred; and
- (c) be given by the master, owner and charterer of the fishing



vessel;

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

(5) The presumption in subsection (4) shall apply whether or not the information was stored before or after any transmission or transfer.

(6) Any authorised officer or observer may give a certificate stating -

- (a) his name, address and official position;
- (b) he is competent to read the printout or visual display unit of any machine capable of obtaining or ascertaining information from an observer device;
- (c) the date and time the information was obtained or ascertained from the observer device and the details thereof;
- (d) the name and call sign of the vessel on which the observer device is or was located as known to him or as ascertained from any official register, record or other document; and
- (e) a declaration that there appeared to be no malfunction in the observer device, its transmissions or other machines used in obtaining or ascertaining the information.

(7) A certificate or other document issued under this section shall be admissible in evidence and shall, in the absence of proof to the contrary be evidence of all the facts averred in it.

(8) Any person who destroys, damages, renders inoperative or otherwise interferes with an observer device or machine aboard a vessel which automatically feeds or inputs information or data into an observer device, or who intentionally feeds or inputs information or data into an observer device which is not officially required or is meaningless commits an offence and shall be liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars and, in default of payment thereof, to imprisonment for a term not exceeding six months.

**Presumptions.**

76.(1) For the purposes of any proceedings under this Act, the act or omission of any member of the crew of a fishing vessel while aboard that vessel or engaged in fishing activity related to or in association with that vessel shall be deemed to be also that of the operator of the vessel.

(2) For the purposes of the prosecution of a person for an offence under this Act, where a person is charged for an act or omission done by an employee or other agent, the act or omission shall be deemed to have also been done by the person charged for the offence.

(3) 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 fishing vessel shall be deemed to be that of the operator of the vessel.

(4) Where any information is given in respect of a fishing vessel under this Act or an applicable access agreement in relation to any fishing activity of a foreign fishing vessel, it shall be presumed, unless the contrary is proved, to have been given by the operator of the vessel concerned, whether it is given by post, telex, telephone,

facsimile, radio transmission or other method of communication.

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

#### **PART XIV GENERAL**

**Liability of master.**

77. Where an offence under this Act has been committed by any person on board or employed on a fishing vessel, the master of such vessel shall also be guilty of the offence.

**Power to compound offences.**

78.(1) Subject to subsection (4) the Minister may, where he is satisfied that any person has committed an offence under this Act or any regulations made under this Act, compound such offences by accepting on behalf of the Government from such person a sum of money not exceeding the maximum fine specified for that offence.

(2) On compounding an offence under this section the Minister may order the release of any article seized under this Act or the proceeds of sale thereof on such conditions including the payment of such additional sums of money not exceeding the value of the article seized, as he may think fit.

(3) No offence shall be compounded under this section unless the person who has committed the offence has expressed his willingness in writing that the offence be so dealt with.

(4) The compounding of an offence under this section shall be notified in writing under

the signature of both parties to the appropriate court.

(5) In any proceedings brought against any person for an offence under this Act or any regulation made under this Act, it shall be a defence if such person proves that the offence with which he is charged has been compounded under this section.

(6) The powers conferred on the Minister by subsection (1) may be exercised by the Chief Fisheries Officer in respect of a local fishing vessel.

(7) This section does not apply to any offence under section 29 or section 30.

## **PART XV REGULATIONS**

### **Regulations.**

79. (1) The Minister may make regulations generally for the management and development of fisheries in the fisheries waters.

(2) In particular, without limiting the generality of subsection (1), the Minister may make regulations for all or any of the following purposes-

(a) providing for the licensing, regulation and management of any particular fishery;

(b) prescribing fisheries management and conservation measures including prescribed mesh sizes, gear standards, minimum species sizes, closed seasons, closed areas, prohibited methods of fishing or fishing gear and schemes for limiting entry into all or any specified fisheries;

- (c) prescribing the constitution, functions and duties of any Fisheries Advisory Committee appointed under section 6;
- (d) regulating the catching and utilisation of fish taken incidentally when fishing for a species for which a licence has been issued;
- (e) providing for the registration and licensing of fishers, fishing gear and other fishing appliances;
- (f) organising and regulating sport fishing in the fisheries waters;
- (g) regulating the use of underwater breathing apparatus;
- (h) regulating or prohibiting the use of spear guns or other similar device;
- (i) regulating the landing, marketing and distribution of fish;
- (j) regulating the transiting of foreign fishing vessels through the fisheries waters and the manner in which fishing gear is to be stowed aboard such vessels;
- (k) making provision for rewards to be paid to any person providing information on the operations of foreign or local fishing vessels leading to a conviction or compounding of an offence under this Act;
- (l) prescribing the form of foreign fishing licences which may take the form of a written licence or a telexed or cabled authorization;
- (m) providing for the implementation of any agreement or arrangement entered into under section 16 or 17;
- (n) providing for the licensing and control of fish aggregating devices and for rights to fish aggregated to such devices;
- (o) regulating-
  - (i) the management and protection of marine reserves;

- (ii) the taking of coral and shells;
- (iii) the setting of fish pens and pin seines;
- (iv) the taking of aquarium or ornamental fish;
- (p) prescribing measures for the protection of turtles;
- (q) providing for the control or prohibition of the import and export of fish or fish products;
- (r) prescribing standards and other measures for the safety of local fishing vessels and fishers;
- (s) providing for the particulars to be recorded in the register of fishing vessels;
- (t) providing for procedures to be followed in respect of dispute settlements;
- (u) regulating the fees payable to fishers' co-operatives and other bodies for the use of wharf facilities;
- (v) regulating the operation of fish processing establishments, including quality control measures and inspection of such establishments;
- (w) prescribing any other matter which is required or authorised to be prescribed.

(3) For the purpose of giving effect to Part X, the Minister may make further regulations-

- (a) for the management and control of fishing vessels of Guyana operating in areas beyond national jurisdiction, to ensure that such vessels do not undermine the effect of international conservation and management measures; and

(b) which are necessary to enable Guyana to fulfil its obligations pursuant to the Compliance Agreement and the Fish Stocks Agreement.

(4) In particular, without limiting the generality of subsection (3), the Minister may make regulations for all or any of the following purposes -

- (a) to apply terms and conditions to high seas fishing permits ;
- (b) to require the recording and timely reporting of vessel position;
- (c) to enable and facilitate the verification of the catch of target and non target fish species;
- (d) to ensure the monitoring, control and surveillance of fishing vessels of Guyana including the installation and mode of operation of vessel monitoring devices and navigational aids;
- (e) to regulate the provision of information from the record to be kept under Part X to directly interested foreign States;
- (f) to regulate or prohibit landings at the ports and offshore terminals of Guyana and transshipments at the ports and offshore terminals of Guyana and on the high seas; and
- (g) to provide that the breach of any regulation made under this Act shall constitute an offence and provide for penalties on summary conviction of a fine not exceeding one million dollars.

(5) Where not otherwise provided for, any breach of a regulation made under this Act

shall constitute an offence and any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding one million dollars

**PART XVI**  
**MISCELLANEOUS**

**Exemptions.** 80. The Minister may, by Order exempt from the requirements of section 13, any local fishing vessels under a size, type or class specified in the Order.

**Prosecution and other penalties, civil proceedings.** 81. (1) All offences under this Act (except if otherwise provided) shall be prosecuted summarily.

(2) Notwithstanding any other written law, any proceedings by way of summary conviction for an offence under this Act may be instituted within but not later than twelve months after the time when the subject-matter of the proceedings arose.

(3) A person who fails to comply with any of the provisions of this Act commits an offence and a person who commits an offence under this act for which no special penalty is provided shall be liable on summary conviction to a fine not exceeding five hundred thousand dollars.

(4) All civil proceedings under this Act shall be instituted and tried in a magistrate's court.

**Repeals.** 82. The Fisheries Act and sections 24 to 33 inclusive, and section 43 of the Maritime Boundaries Act, 1977 are hereby repealed.

**Savings.** 83. Notwithstanding the repeal of the Fisheries Act and sections of the Maritime Boundaries Act, 1977, insofar as they relate to fisheries, by section 82 regulations, orders and notices made or issued thereunder including any licences, permits and other authorizations shall, insofar as they are consistent with this Act. continue to have effect



as though made or issued under this Act. subject to amendment or revocation by this Act.

## EXPLANATORY MECHANISM